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The Unrepealed Acts of the Legislative Councils of India and Bengal, 1859-1869 vol. II, Pt. I

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S. Law and Legislation | Unrepealed Acts | Legislative Council | India | 1861

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VOL. I. Part I

THE UNREPEALED

OF THE

GOVERNOR-GENERAL OF INDIA IN

1859—1861.

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Page 149, against Sections II, III,
Act X of 1870, read *Pro*

" 262, against Section III Act XVII
XIV of 1870.

" 271, last line, for *Act VIII of 1856*, rea

1.—For each European seaman or apprentice or other person shipped on the same footing as an European seaman, nine superficial feet if the place be not less than six feet in height from deck to deck; or fifty-four cubic feet if the height from deck to deck be less than six feet.

2.—For each lascar or native seaman or other person shipped on the same footing as a lascar, four superficial feet; and if the place allotted be under the top-gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage; and, if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding Two Hundred Rupees; and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the master shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding One Hundred Rupees.

Shipping Master, &c., may enter any ship and inspect provisions, etc.

LXXI. The Shipping Master at any port in India, by himself or his Deputy may enter at any time on board of any ship upon which seamen have been shipped at such port, and inspect the provisions and water provided for the use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act 1854. If on inspection the provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the Shipping Master shall proceed as provided in Section LXIV of this Act, and the penalty prescribed in the said Section shall be incurred by any default of the master of the ship in respect of such provisions or water.

POWER OF MAKING COMPLAINTS.

Seamen to be allowed to go ashore to make complaint to a Justice.

LXXII. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a Magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding One Hundred Rupees.

PROTECTION OF SEAMEN FROM IMPOSITION.

Sale of and charge upon wawes to be invalid.

LXXIII. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any Court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage made prior to the accuring thereof, shall bind the party making the same; and no power of attorney, or authority for the receipt of any such wages or salvage shall be irrevocable.

No debt exceeding three Rupees recoverable till end of voyage.

LXXIV. No debt exceeding in amount three Rupees, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

Penalty for overcharges by lodging-house-keepers.

LXXV. If any person demands or receives from any seamen or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding One Hundred Rupees.

Penalty for detaining seamen's effects.

LXXVI. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding One Hundred Rupees; and any Magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Persons to go on board before the final arrival of ship without permission.

LXXVII. Every person who, not being in the service of Her Majesty and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival at the place of her discharge, without the permission, of the master, shall for every such offence incur a penalty not exceeding Two Hundred Rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into

custody, and deliver him up forthwith to any Police Officer, to be by him taken before a Magistrate to be dealt with according to the provisions of this Act.

LXXVIII. If, within twenty-four hours after the arrival of any ship at any port in India, any person then being or board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding Fifty Rupees.

Penalty for solicitations by lodging-house-keepers.

DISCIPLINE.

LXXIX. Any master of, or any seaman or apprentice belonging to any ship registered at, trading with, or being at any port or place in India, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be liable to imprisonment, with or without hard labor, for a term not exceeding two years.

Penalty for misconduct endangering ship or life or limb.

LXXX. Any Court having Admiralty Jurisdiction in India may, upon application by the owner of any ship being within the jurisdiction of such Court, or by the part owner or consignee, or by the agent of the owner, or by any certificated mate or by one-third or more of the crew of such ship, and upon proof on oath to the satisfaction of such Court that the removal of the master of such ship is necessary, remove him accordingly ; and may also, with the consent of the owner of his agent or the consignee of the ship, or, if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit.

Admiralty Court in India may in certain cases remove master and appoint a new master.

Section 4 XXXI.—LXXXII. repealed by Act XV. of 1863.

LXXXIII. Whenever any seaman who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be liable to be punished summarily as follows ; (that is to say)—

Offences of seamen and apprentices, and their punishments.

1. For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place at any port or place not in India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any port or place in India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

Desertion.

2. For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship, or from his duty, not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labor, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding the amount of two day's pay, and in addition for twenty-four hours of absence either a sum not exceeding six day's pay, or any expenses which have been properly incurred in hiring a substitute.

Absence without leave.

3. For quitting the ship without leave after her arrival at her Port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay.

Quitting ship before she is moored.

4. For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labor, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two day's pay.

Disobedience.

5. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor, and also at the discretion of the Court, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute.

Continued Disobedience.

Assault on master or mate.

6. For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Conspiracy.

7. For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Embezzlement of cargo.

8. For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Smuggling.

9. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Entry of offences to be made in official log, and to be read over, or a copy given to the offender; and his reply, if any, to be also entered.

LXXXIV. Upon the commission of any of the offences enumerated in the last preceding Section, an entry thereof shall be made in the official log-book, and shall be signed by the master and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seaman whom masters of ships are compelled to convey and persons going in ships without leave, to be subject to penalties for breach of discipline.

LXXXV. Every seafaring person whom the master of any ship is, under the authority of this Act, or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishment for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner &c, may apprehend deserters without warrant.

LXXXVI. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of Police Officers, who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some Court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such Court, detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary, or may, if he does not so require, or if there is no such Court at or near the place, at once convey him on board; and if any such apprehension appears to the Court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee, who makes the same, or causes the same to be made, shall incur a penalty not exceeding two hundred Rupees; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Deserters may be sent on board in lieu of being imprisoned.

LXXXVII. Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join, or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such Court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

LXXXVIII. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join, or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Seamen imprisoned for breach of discipline may be sent on board before termination of sentence.

LXXXIX. In all cases of desertion from any ship registered at a port or place in India while such ship is at any place out of India, the master shall produce the entry of such Desertion in the official log-book to the person or persons required by the Merchant Shipping Act 1854 to endorse on the agreement a Certificate of such Desertion; and such person or persons shall thereupon make and certify a copy of such entry, and also a copy of the said Certificate of Desertion; the master shall forthwith transmit such copies to the Shipping Master at the port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

XC. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any port or place in India, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log-book: and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained be deemed to be proved, unless the seaman or apprentice can produce a proper Certificate of discharge, or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Facilities for proving desertion so far as concerns forfeiture of wages.

XCI. Whenever in any proceeding relating to seamen's wages it is shown, that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefore by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman, not exceeding thirty Rupees, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Cost of procuring imprisonment may, to the extent of 30 Rupees, be deducted from wages.

XCII. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Amount of forfeiture how to be ascertained when seamen contract for the voyage, &c.

XCIII. All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion, shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages, the Court may order the same to be paid accordingly; and, subject to such reimbursement, the same shall be paid into the Public Treasury and carried to the amount of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Application of forfeitures.

XCIV. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any Criminal proceeding.

Questions of forfeitures may be decided in suits for wages.

Penalty for false statement as to last ship or name.

XCV. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding fifty Rupees, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Fines to be deducted from wages, and paid to Shipping Master.

XCVI. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall he made in the official log-book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows (that is to say), if the offender is discharged at any port or place in India, and the offence and such entries in respect thereof as aforesaid, are proved, in the case of a Foreign-going ship to the satisfaction of the Shipping Master before whom the offende is discharged and in the case of a Home-trade ship to the satisfaction of the Shipping Master at or nearest to the place at which at which crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such Shipping Master; and if before the final discharge of the crew in India, any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in India, and the offence and such entries as aforesaid are proved to the satisfaction of the Officer in command of the ship into which he so enters or of the Consular Officer, Officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such Officer or other person; and on the return of the ship to India, the master or owner shall pay over such fine, in the case of Foreign-going ships to the Shipping Master before whom the crew is discharged, and in the case of Home-trade ships to the Shipping Master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Penalty for enticing to desert and harbouring deserters.

XCVIII. Every person who by any any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding One Hundred Rupees; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join, or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding One Hundred Rupees.

Penalty for obtaining passage surreptitiously.

XCVII. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding Two Hundred Rupees, or be liable to imprisonment, with or without hard labor, for any period not exceeding four weeks.

On charge of masters, documents to be handed over to successor.

XCIX. If during the progress of a voyage the master of any ship registered at any port or place in India is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof, which are in his custody; and shall in default incur a penalty not exceeding One Thousand Rupees; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

ENQUIRIES INTO WRECKS.

Enquiry may be instituted in cases of wreck and casualty.

C. In any of the cases following (that is to say)—

Whenever any ship is lost, abandoned, or materially damaged on or near the costs of India.;

Whenever any ship causes loss or material damage to any other ship on or near such coasts;

Whenever, by rea on of any casualty happening to or on board of any ship on or near such coasts, loss of life ensues ;

Whenever any such loss, abandonment, damage, or casualty happens elsewhere to or on board any ship registered at any port or place in India, under the Merchant Shipping Act 1854 or under Act X of 1841—

It shall be the duty of any European Civil Officer of Government residing at or near the place where such loss, abandonment, damage, or casualty occurred if the same occurred in India, but if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found, to give notice of the same to the local Government. It shall be lawful for the local Government, whether such notice be given or not, if a formal investigation appears to it to be requisite or expedient, to appoint two persons to make the same. The investigation shall be held at such place as the local Government shall deem best for the convenient examination of the witnesses. One of the persons to be so appointed shall be a Magistrate acting in or near the place where the investigation is held : the other may be any person conversant with maritime affairs.

Investigation

CI. The person appointed shall proceed to make the investigation, and shall for that purpose, so far as relates to compelling the attendance of witnesses and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which such Magistrate has power to convict summarily, or as near thereto as circumstances admit.

Report.

CII. Upon the conclusion of the case the persons appointed to investigate shall send a report to the local Government, containing a full statement of the case and of their opinion thereon, accompanied by such report of or extracts from the evidence and such observations (if any) as they may think fit.

OFFICIAL LOGS.

Official logs to be kept in forms sanctioned by local Government.

CIII. An official log-book of every ship registered at any port or place in India, except Home-trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the local Government ; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

CIV. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates shall be made and dated so as to show the date of the occurrence, and of the entry respecting it ; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final Port of discharge be made more than twenty-four hours after such arrivals

Entries required in official log.

CV. Every master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters, (that is to say)—

1. Every legal conviction of any member of his crew and the punishment inflicted:

2. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore required:

3. Every offence for which punishment is inflicted on board and the punishment inflicted:

4. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars:

5. Every case of illness or injury happening to any member of the crew with the nature thereof, and the medical treatment adopted (if any):

6. Every case of death happening on board, and the cause thereof:

7. Every birth happening on board with the sex of the infant and the names of the parents:

8. Every marriage taking place on board with the names and ages of the parties:

9. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof.

10. The amount of wages due to any seaman who enters Her Majesty's service during the voyage :

11. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom :

12. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it.

13. Every collision with any other ship and the circumstances under which the same occurred.

Entries how to be signed.

CVI. The entries hereby required to be made in official log-books shall be signed as follows, (that is to say), every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies, shall be signed by the master and by the mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman, or by the officer authorized to receive the seaman into such service.

Penalties in respect of official logs.

CVII. The following offences in respect of official log-books shall be punishable as hereinafter mentioned, (that is to say)—

1. If in any case an official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding fifty Rupees.

2. Every person who makes or procures to be made or assists in making any entry in an official log book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in India, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding Three Hundred Rupees.

3. Every person who wilfully destroys or mutilates or renders illegible an entry in any official log-book, or who wilfully makes, or procures to be made or assists in making, any false or fraudulent entry or omission in any such log-book, shall for each such offence be liable to imprisonment, with or without hard labor, for a term not exceeding one year.

Entries in official logs to be received in evidence.

CVIII. All entries made in any official log-book as hereinbefore directed shall be received in evidence in any proceeding in any Court of Justice, subject to all just exceptions.

Official logs to be delivered to Shipping Master on ship's arrival at port of destination in India.

CIX. The master of every Foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver to the shipping Master before whom the crew is discharged, the official log-book of the voyage; and the master or owner of every Home-trade ship of a burden exceeding three hundred tons shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some Shipping Master in India the official log-book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log-book, as hereby required shall be subject to a penalty not exceeding Two Hundred Rupees.

Official logs to be transmitted to Shipping Master in case of transfer of ship and in case of loss.

CX. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of Section CIII of this Act, the master or owner thereof shall, if such ship is then in any port in India, within one month, and if she is elsewhere, within six months, deliver or transmit to the Shipping Master at the port to which the ship belonged, the official log-book duly made out to the time at which she ceased to be within such operation, and in default shall for each offence incur a penalty not exceeding One Hundred Rupees; and if any ship is lost or abandoned, the master or owner thereof, shall, if practicable, and as soon as possible, deliver or transmit to the Shipping Master at the port to which the ship belonged, the official log-book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding One Hundred Rupees.

PROCEDURE, &c.

Depositions to be received in evidence, when witnesses cannot be produced.

CXI. Whenever, in the course of any legal proceedings instituted at any port or place in India before any Judge or Magistrate or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject matter before any Justice or Magistrate in Her Majesty's Dominions (including all parts of India other than those subject to the same local Government as the port or place where such proceedings are instituted), or any British Consular Officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate, or Consular Officer, be admissible in evidence on due proof that

such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted. Provided that, if the proceeding is Criminal, such deposition shall not be admissible, unless it was made in the presence of the person accused and the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer. It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any Criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Adjudication of offences and recovery of penalties.

CXII. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII of 1856, relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the Towns of Calcutta, Madras and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Wages, penalties, &c., payable by master or owner may be levied by distress of ship.

CXIII. In all cases where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then if the party so directed to pay the same is the master or owner of a ship and the same is not paid at the time and in manner prescribed in the order, the Court or Magistrate who made the order may, in addition to any other powers which such Court or Magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

MISCELANEOUS.

Act not to extend to ships belonging to Her Majesty or to any Foreign Prince or State. Or (except certain Sections) to ships belonging to the subjects of any Foreign Prince or State.

CXIV. Nothing in this Act shall extend to any ship belonging to or in the service of Her Majesty, or to any ship belonging to any Foreign Prince or State; and nothing in this Act, except as otherwise hereinafter provided, shall extend to any ship belonging to the subjects of any Foreign Prince or State.

Engagements between masters of Foreign ships and lascars.

CXV. When the master of a Foreign ship, being at any Port in India, engages any lascar or other native seaman to proceed to any Port out of India, he shall enter into an agreement with such seaman, and the agreement shall be made before a Shipping Master in the manner hereinbefore provided for the making of agreements in the case of Foreign-going ships, and all the provisions of Sections XXI and XXII of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman; and the master of such Foreign ship shall give to the Shipping Master a bond with the security of some approved person resident in India for an amount calculated at the rate of One Hundred Rupees for every such seaman and conditioned for the due performance of the said agreement and stipulations.

Fees payable in respect of such engagements.

CXVI. The fees prescribed in Section VI of this Act shall be payable in respect of every such agreement, and deductions from the wages of seaman so engaged may be made to the extent and in the manner allowed by the said Section.

Interpretation. "India." "Local Government." "Home-trade ship." "Foreign-going ship." "Master." "seaman."

Penalty for master of Foreign ship engaging native seaman otherwise than as above. Shipping Master may board Foreign ships suspected of unlawfully shipping native seaman.

CXVII. If any lascar or other native seaman is engaged by the master of any Foreign ship otherwise than is allowed in the two last preceding Sections, such master shall be liable to a penalty of One Hundred Rupees for every such seaman so engaged. It shall be lawful for the Shipping Master, by himself or his deputy, to enter on board any Foreign ship upon which he shall have reason to believe that any such seaman has been shipped, and the provisions of Section XXX of this Act, shall be applicable in respect of every such ship.

CXVIII. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be some thing in the subject or context repugnant to such construction, (that is say), the word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India"; the expression "local Government" shall mean the person or persons for the time being immediately administering the Executive Government of any portion of the said territories. The expression "Home-trade ship" shall include every ship employed in trading between any ports of the said territories: or between any port of the said territories and any port or place on the Continent of India or in the Island of Ceylon. The expression "Foreign-going ship" shall include every ship employed in trading between any port of the said territories and any port or place not in the said territories, nor on the Continent of India, nor in the Island of

Ceylon. The word "master" shall include every person (except a Pilot) having command or charge of any ship. The word "seaman" shall include every person (except masters, pilots, and apprentices) employed or engaged in any capacity on board any ship. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Words importing the masculine gender shall include females. The word "person" shall include a corporation.

TABLE A. *(See Section V.*

Fees to be charged for matters transacted at Shipping Offices,

1. Engagement or discharge of crews.

				Rs.	As.	P.
In Ships under	100	Tons	...	3	0	0
From 100 to	200	„	...	7	0	0
200 to	300	„	...	10	0	0
300 to	400	„	...	12	8	0
400 to	500	„	...	15	0	0
500 to	600	„	...	17	8	0
600 to	700	„	...	20	0	0
700 to	800	„	...	22	8	0
800 to	900	„	...	25	0	0
900 to	1,000	„	...	27	8	0
above	1,000	„	...	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two Rupees and eight annas.

2. Engagement or discharge of seamen separately, one Rupee for each seaman.

TABLE B. *(See Section VI.)*

Sums to be deducted from wages by way of partial repayment of fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge.

		Rs.	As.	P.
From wages of any Mate, Purser, Engineer, Surgeon, Carpenter, or Steward.	...	0	12	0
From wages of all others except apprentices	...	0	8	0
2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge	...	0	8	0

ACT No. III OF 1859.

(Received the assent of the Governor General on the 25th January 1859.)

1. Executive Government may invest Cantonment Joint Magistrates with Civil jurisdiction in certain cases.

2. Part of Act XI of 1841 suspended in Cantonments where Joint Magistrates are so invested with Civil jurisdiction.

3. Also, the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazars.

4. Persons amenable to be Articles of War for the Native Army, to be sued before Cantonment Joint Magistrates invested with Civil jurisdiction, and not elsewhere.

5. Saving of Rules in force in the Madras Presidency for the trial by Punchayet of suits against Military persons.

6. Trader not to recover any debt, unless registered as a Military Bazarman.

7. Procedure in cases under this Act. No revision or appeal. Execution of decrees.

8. Compensation may be awarded to a defendant, if suit be groundless and instituted without probable cause.

9. Cantonment Joint Magistrates may be appointed Registers of Deeds, within the limits of their jurisdiction.

10. Rules applicable to Registers of Deeds to be applicable to Cantonment Joint Magistrates appointed Registers.
11. Oaths of Office.

An Act for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds.

WHEREAS it is expedient that Cantonment Joint Magistrates should be invested with Civil jurisdiction in certain cases within the local limits of their Criminal jurisdiction, and that they should also be appointed Registers of Deeds within the same limits; It is enacted as follows:—

Government may invest Cantonment Joint Magistrates with Civil jurisdiction in certain cases.

I. It shall be competent to the Governor-General in Council, and to the Executive Government of any Presidency or place, to invest the Joint Magistrate of any Military Cantonment Bazar or Station, within the limits of their respective Governments, with Civil jurisdiction. Every Joint Magistrate so invested shall have power to hear and determine actions of debt and other personal actions, in which the value in question shall not exceed the sum of two hundred Rupees, and which shall not involve any dispute of caste or any right of real property, against any person who at the time when the cause of action arose, and at the time of the institution of the suit, shall have been or shall be subject to the Articles of War for the Native Army, or residing or carrying on trade or business within the limits of such Military Cantonment Bazar or Station, and not subject to any Articles of War made by Her Majesty.

Part of Act XI of 1841 suspended. Joint Magistrates are invested with Civil jurisdiction.

II. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of the preceding Section, and so long as he shall remain so invested, so much of Act XI of 1841, as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall be suspended within the limits of such Cantonment bazar or Station.

Also the Rules for trial of small suits in Military Bazars.

III. Whenever in either of the Presidencies of Madras or Bombay an Officer shall be invested with Civil jurisdiction as aforesaid, and so long as he shall remain so invested, the Rules for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively shall cease to have effect within the jurisdiction of such Officer.

Persons amenable to the Articles of war, to to be sued only before Cantonment Joint Magistrates.

IV. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of this Act, no person amenable to the Articles of War for the Native Army, who may be liable to be sued before such Joint Magistrate for any cause of action cognizable by him, shall be sued elsewhere.

Saving of Rules in Madras Presidency for trial of suits by Punchayet.

V. Provided that, nothing in the preceding Sections shall be held to alter or affect the Rules in force in the Madras Presidency for the trial by Punchayet of suits against Military persons belonging to that Presidency.

Trader not to recover any debt, unless registered as a Military Bazar-man.

VI. No person carrying on trade or business within the limits of any Military Contonments, or who shall have carried on trade or business within any such limits, shall be allowed to recover in any Court held under this Act any debt contracted in the way of such trade or business, or the loan of money within any such cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting the same, have been registered as a Military Bazarman within such Cantonment.

Procedure in cases under this Act.

VII. In cases instituted under the provisions of this Act, the plaintiff shall prefer his claim in writing to the Court of the Joint Magistrate having jurisdiction over the same, and if the defendant be a Native Officer or Soldier or a mustered Camp Follower, the summons to appear and answer to the claim shall be transmitted, for the purpose of being served on the defendant, to the Commanding Officer of the Corps or Detachment to which such defendant may belong; and the Commanding Officer shall return the summons to the Joint Magistrate, with the acknowledgment of the defendant endorsed thereon; or if, the summons cannot be served, the reason of the non-service shall be stated. In other respects the rules of procedure and all other rules contained in Act XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company*) shall be applicable to such cases, and to the execution of the decrees passed therein, so far as the same are applicable: Provided, that the decisions of the Joint Magistrate in cases cognizable by him under this Act shall not be open to revision or appeal; And provided further, that it shall not be necessary to publish in Station Orders the decrees passed in such cases before they are carried into execution, and the Joint Magistrate passing the decree shall determine whether the execution shall be general or special, and shall proceed of his own authority with the execution.

No revision appeal

Execution of Decrees.

Compensation to defendant if suit be groundless.

VIII. If the claim of the plaintiff be dismissed, and it shall appear to the Joint Magistrate that the suit was groundless, and that there was no probable cause for instituting the name, it shall be competent to such Joint Magistrate to award against the plaintiff in favor of the defendant, such sum as he may consider a reasonable compensation to the defendant for the loss of time and expense to which he may have been subject by the institution of the suit against him, and to proceed to recover the amount so awarded under the rules applicable to execution of decrees passed under this Act.

Repealed by XVI. 1864.

Oath of Office.

XI. Every Joint Magistrate who shall be invested with Civil jurisdiction, or who shall be appointed Register of Deeds under the provisions of this Act, shall previously to entering upon the performance of his duties, make and subscribe before the Chief Civil Officer, or, where there may be no Civil Officer, before the Chief Military Officer of the District or Zillah in which such Cantonment Bazar or Station is situate, the oaths required by law to be made and subscribed by Civil Judges and Registers of Deeds respectively, or the declarations substituted for such oaths.

ACT No. V. of 1859.

(Received the assent of the Governor General on the 4th March 1859.)

1. Ghatwals of Beerbhoom to have the same right of granting leases as is allowed to other proprietors of lands. Proviso.

2. Courts of Wards and Revenue authorities to have the like power in certain cases.

An Act to empower the holders of Ghatwalee land, in the Districts of Beerbhoom to grant leases extending beyond the period of their own possession.

WHEREAS it has been held that the Ghatwals of the District of Beerbhoom who pay the revenue of their lands directly to Government under the provisions of Regulation XXIX. 1814 of the Bengal Code have not the power of alienating their lands; and whereas, for the development of the mineral resources of the country in which the said Ghatwalee lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession, should in certain cases be extended to the possession of such lands; It is enacted as follows:—

I. Ghatwals, holding lands in the District of Beerbhoom under the provisions of the aforesaid Regulation, shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures, as is allowed by law to the proprietors of other lands. Provided, that no lease of Ghatwalee lands for any period extending beyond the life-time or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines, or for the clearing of jungle, or for the erection of dwelling houses or manufactories, or for tanks, canals, and similar works; and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

II. If any of the said Ghatwalee lands be at any time under the superintendence of the Courts of Wards, or otherwise subject to the direct control of the officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

ACT No. VIII. OF 1859.*

(Received the assent of the Governor-General on the 22nd March 1859.)

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CHAPTER I.

OF THE JURISDICTION OF THE CIVIL COURTS.

Civil Courts to have cognizance of all Civil suits unless specially barred.

I. The Civil Courts shall take cognizance of all suits of a Civil nature, with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras, and Bombay respectively, or by any Act of the Governor General of India in Council.

Or previously heard and determined.

II. The Civil Courts shall not take cognizance of any suit brought on a cause of action which shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they claim.

Revision of Judgments.

III. The judgment of the Civil Courts shall not be subject to revision otherwise than by those Courts under the rules contained in this Act applicable to reviews of judgment, and by the constituted Courts of Appellate Jurisdiction.

Jurisdiction universal as to persons.

IV. No person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

Jurisdiction as to other points.

V. Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force, the Civil Courts of each grade shall receive, try, and determine all suits hereby declared to be cognizable by those Courts, if, in the case of suits for land or other immoveable property, such land or property shall be situate within the limits to which their respective jurisdiction may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or personally work for gain, within such limits.

In what Court suit to be instituted.

VI. Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court, and to try such suit itself, or to refer it for trial to any other Court subordinate to its authority and competent in respect of the value of the suit to try the same, whenever it may see sufficient cause for so doing. In like manner the Sudder Court may order that the cognizance of any suit or appeal, which may be instituted in any Court subordinate to such Sudder Court, shall be transferred to any other Court subordinate to its authority and competent in respect of the value of the suit or appeal to try the same.

Transfer of suits.

Suit to include the whole claim, but part may be abandoned.

VII. Every suit shall include the whole of the claim arising out of the cause of action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted, shall not afterwards be entertained.

VIII. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Joinder of separate causes of action in one suit.

IX. If two or more causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

Court may order separate trial of such causes of action.

X. A claim for the recovery of land, and a claim for the mesne profits of such land, shall be deemed to be distinct causes of action within the meaning of the two last preceding Sections.

Claims for land and for mesne profits, to be held distinct.

XI. If the suit be for land or other immoveable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immoveable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by such Court; but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for land in different jurisdictions of the same District.

XII. In like manner, if the property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which the Court is subordinate.

Suits for land situate in different Districts.

XIII. If the Districts within the limits of which the property is situate are subject to different Sudder Courts, the application shall be submitted to the Sudder Court to which the District, in which the suit is brought, is subject: and the Sudder Court to which such application is made, may, with the concurrence of the Sudder Court to which the other District is subject, give authority to proceed with the same.

Suits for land situate under different Sudder Courts.

XIV. If, in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hearing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit. Provided that, if it be shown that the land in dispute has been adjudged by competent authority to belong to an estate, village, or other known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint or return it to the plaintiff in order to its being presented in the proper Court.

Suit for land on borders of the Court's local jurisdiction but alleged by defendant to be in another jurisdiction.

Proviso.

XV. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Civil Courts to make binding declarations of right without granting consequential relief.

Declaratory suit.

CHAPTER II.

PRELIMINARY RULES.

XVI. All applications to any Civil Court, and all appearances of parties in any Civil Court, except when otherwise specially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Parties may appear in person or by agent or pleader.

XVII. The recognized agents of parties by whom such applications and appearances may be made are—

Who are to be deemed recognised agents.

1st. Persons holding general powers of attorny from parties not within the jurisdiction of the Court, authorizing them to make such applications and appearances on behalf of such parties.

2ndly.—Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court, in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

3rdly. Persons being ex-officio or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

4thly.—Persons specially appointed by order of Government, at the request of any Sovereign Prince or Independent Chief, whether residing within or without the British Territories, to prosecute or defend a suit on his behalf.

Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall

otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to or processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applicable to the service of notices and processes on such recognized agent,

Appointment of pleaders.

XVIII. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court. When so filed, it shall be considered to be in full force, until revoked by a writing filed in the Court.

Service of notices, &c., on pleaders.

All notices given to, or processes served on the pleader of any party, or left at the office or ordinary residence of such pleader, relative to a suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and shall be as effectual, for all purposes in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

Officer or Soldier may authorise any one to appear for him.

XIX. When an Officer or Soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any member of his family or any other person to commence, conduct, and manage the suit or the defence, as the case may be, in his stead. The authority shall be in writing, and shall be signed by the Officer or Soldier in the presence of his Commanding Officer, who shall countersing the same, and it shall be filed in the Court. When so filed, the counter-signature of the Commanding Officer shall be sufficient proof that the authority was duly executed, and that the Officer or Soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

Such person may appear personally or appoint a pleader.

XX. Any person who may be authorized, as in the last preceding Section mentioned, by an Officer or Soldier, to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person, in the same manner as the Officer or Soldier could do, if present; or he may appoint a pleader of the Court to prosecute or defend the suit on behalf of such Officer or Soldier. And all notices or processes relative to the suit, which may be served upon any person who shall be so authorized as aforesaid by an Officer or Soldier, or upon any pleader who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person, or on a pleader appointed by him.

Purdah woman exempt from personal appearance.

XXI. Women, who according to the custom and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Government may exempt person of rank from personal appearance.

XXII. The Government may at its discretion exempt from personal appearance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. The names of the persons so exempted (if any) residing within the jurisdiction of the principal Civil Court of each District shall from time to time be forwarded to such Court by the local Government, and a list of such persons (if any) shall be kept in such Court and in the several subordinate Courts of the District.

XXIII. Repealed by Act XXIII. 1861, Section I.

Punishment for false verification of plaint, statement, &c.

XXIV. If any plaint, written statement, or declaration in writing required by this Act to be verified shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

CHAPTER III.

OF A SUIT TILL FINAL DECREE.

OF THE INSTITUTION OF SUITS.

Suits to be commenced by plaint.

XXV. All suits shall be commenced by a plaint, which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Particulars to be given in the plaint.

XXVI. The plaint shall be distinctly written in the language in ordina use in proceedings before the Court, and shall contain the following particulars:

1.—The name, description, and place of abode of the plaintiff.

2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action and when it accrued: and if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit: the ground upon which exemption from the law is claimed.

The following are instances:

If the suit be for money due on a bond or other written instrument:—Payment of due on (*a bond or other written instrument as the case may be*) for the sum of , bearing date the day of , and payable on the day of namely,—

Principal.....

Interest .....

Amount paid (if any) .....

Balance due.....

If the plaintiff claim exemption from any law of limitation, say—"The plaintiff was an infant (*or as the case may be*) from the day of to the day of ."

If the suit be for the price of goods sold:—Payment of , on account of maunds of (*rice, indigo, sugar or as the case may be,*) sold on the day of , and the price of which became payable on the day of as per account at foot.

If the suit be for damages for an injury done:—Payment of on account of injury done to the plaintiff, [*here set out the nature of the injury, and state the particulars of the pecuniary loss (if any)*].

4.—When the claim is for any property other than money, its estimated value.

The following is an instance:—

If the suit be for an estate or for share in an estate paying revenue to Government:—Possession of the estate (*or of share in the estate,*) called , situate in the Zillah of the sudder jumma of which is and estimated value , of which the plaintiff was dispossessed (*or forcibly or fraudulently dispossessed if the case be so,*) on the day of ; (*or to which the plaintiff became entitled by inheritance from or by gift, purchase, or otherwise, as the case may be on or about the day*).

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified; and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In all suits by or against the Government, or one of its Officers in his official capacity, or any corporation, or any company authorized to sue and be sued in the name of an Officer or Trustees, the words "The Government," or "The Collector of ," or otherwise as the case may be, or the name of the Corporation, or the name or names of the Officers or Trustees of the Company, shall be inserted in Nos. 1 and 2, instead of the name and description of the plaintiff or defendant. But in all other cases it shall be necessary to specify the names of all the parties.

Plaint to be subscribed and verified.

XXVII. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff in the manner following, or to the like effect:—

I (A.B.) the plaintiff named in the above plaint do declare that what is stated therein is true to be best of my information and belief.

Absence of plaintiff. Verification by Officer of corporation or company.

XXVIII. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification. In suits by a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the plaint shall be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to depose to the facts of the case.

Court may reject plaint, if it do not contain the required particulars, &c. Amendment of Plaint.

XXIX. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those required to be specified, whether relevant to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed and verified

as hereinbefore required, the Court may reject the plaint, or at its discretion may allow the plaint to be amended.

Plaint to be returned, if the claim is beyond the jurisdiction of the Court.

XXX. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

Plaint to be rejected, if improperly or insufficiently valued.

XXXI. If it appear to the Court that the claim is improperly valued, or being properly valued, that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Plaint to be rejected, if plaintiff has no cause of action or right of action is barred by lapse of time. Amendment of plaint.

XXXII. If upon the face of the plaint, or after questioning the plaintiff, it appear to the Court that the subject matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint. Provided, that the Court may in any case allow the plaint to be amended, if it appear proper to do so.

XXXIII. Repealed by Act XXIII, 1861, Sec. 1

Security for costs to be furnished by plaintiff if he resides out of British India.

XXXIV. A suit by a party ordinarily residing out of the British territories in India, and not possessing any land or other immoveable property within those territories independent of the property in suit, shall not be entertained, unless the plaintiff, at the time of presenting the plaint or within such time as the Court shall order, furnish security for the payment of all costs that may be incurred by the defendant in the suit. In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Security for costs may be required in any stage of suit, if plaintiff resides out of India.

XXXV. If in any stage of a suit it shall appear to the Court, that the plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order, him within a time to be fixed by such order, to furnish security for the payment of all costs incurred and to be incurred by the defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of Section 97.

Appeal from order rejecting plaint.

XXXVI. Whenever a plaint is rejected under any of the foregoing Sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint on any of the grounds mentioned in Sections 29 and 31 shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

Proceeding in a suit for immoveable property in different jurisdictions.

XXXVII. If the suit be for land or other immoveable property, situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in Section 11, Section 12, or Section 13, as the case may be.

When the plaint is admissible, particulars to be entered in a Register.

XXXVIII. If the Court consider the plaint admissible, the particulars mentioned in Section 26 shall be entered in a book to be kept for the purpose, and called the Register of Civil Suits; and the entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contain in the Schedule (A) hereunto annexed.

Written document to be produced in Court when plaint is presented, or to be inadmissible in evidence.

XXXIX. When the plaintiff sues upon any written document, or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and shall at the same time deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop-book or other book, the plaintiff shall produce the book to the Court together with a copy of the entry on which he relies. The Court shall forthwith mark the document for the purpose of identification; and, after examining and comparing the copy with the original, shall return the document to the plaintiff. The plaintiff may if he think proper, deliver the original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct any written document so produced to be impounded and kept in the custody of some Officer of the Court, for such period and subject to such conditions as to the Court shall seem meet. Any document, not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit without the sanction of the Court.

Production of document in possession of defendant.

XL. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

Of Summoning the Defendant.

On plaint being registered, summons to issue to defendant, either for settlement

XLI. When the plaint has been registered, a summons, under the signature of the Judge and the seal of the Court, shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the

suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit, and the summons shall contain a direction accordingly.

of the issues, or for final disposal of the case.

XLII. If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance. Provided, that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

Personal appearance of defendant or plaintiff. If resident within 50 miles, or within the local jurisdiction of the Court.

XLIII. The summons to appear shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

Summons shall order defendant to produce documents.

XLIV. The summons shall be in the Form contained in the Schedule (B) hereunto annexed, or to the like effect.

Form of summons.

XLV. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a pleader on such day.

The day for appearance of defendant how to be fixed.

XLVI. In suits against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the Court may, if it think proper, require the personal attendence of any Director, Secretary, or other principal Officer of the Corporation or Company, who may be able to answer all material questions relating to the suit.

Court may order personal appearance of a Director or Secretary in suits against a Corporation or Company

SERVICE OF SUMMONS ON THE DEFENDANT.

XLVII. The summons shall be delivered to the Nazir, or other proper officer of the Court, to be served by himself or one of his subordinates, and such officer shall be responsible for its due service.

Summons shall be served by Officer of Court.

XLVIII. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

How service shall be made.

XLIX. Whenever it may be practicable, the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Service to be on defendant in person, when practicable. Service on agent sufficient.

L. Besides the recognized agents described in Section 17, any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonces and other processes.

Who may be an agent to receive service.

LI. The appointment of such agent shall be in writing, and the original appointment, or a copy thereof if the appointment be a general one, shall be field in the Court.

Appointment of such agent to be in writing and filed in Court.

LII. The Government pleader in each Court shall be accounted the agent of the Government for the purpose of receiving services of summonses and other judicial processes against the Government, issuing out of the Court in which he may be the pleader of Government.

Agent of Government.

LIII. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

If defendant cannot be found, and no agent, service may be made on a male member of his family.

LIV. In all cases where the summons is served on the defendant personally, or any agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

In all cases the person served is to be required to endorse the summons. But service is sufficient without.

LV. When the defendant cannot be found, and there is no agent empowered to accept the service, nor any other person on whom the service can be made, the serving Officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling; and if, he is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve

If the summons cannot be served, a copy shall be fixed to the door of the dwelling house.

it. Provided that, if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the jurisdiction of the Court other than that indicated in the summons, the Officer may proceed to that place to serve the summons.

If served, time and manner of service to be endorsed on summons.

LVI. The serving Officers shall, in all cases in which the summons has been served, endorse on the original summons or on a copy thereof under the seal of the Court, the time when and the manner in which it was served.

When summons is unserved, Court to order substituted service, if defendant is avoiding service.

LVII. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its Officer for the purpose of avoiding the service of the summons, the court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of Court shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When service is substituted, the time for appearance to be fixed.

LVIII. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last preceding Section, the Court shall fix such time for the appearance of the defendant as the case may require,

How summons is to be served, when defendant is resident within another jurisdiction and has no agent.

LIX. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an Officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted, shall, upon receipt of the summons, deliver the same to the Nazir or other proper Officer of such Court to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be re-transmitted to the Court from whence it originally issued.

How summons is to be served, when defendant resides out of British India and has no agent. Time for appearance. In case of non appearance, Court may direct suit to proceed subject to conditions.

LX. If the defendant be resident out of the British territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside, and forwarded to him by post; in such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit, or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

In suits for immoveable property service may in certain cases be on agent in charge.

LXI. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immoveable property.

How service may be made on Government Servants, and on Officers and Soldiers.

LXII. When the defendant is in the service of the Government, the Court may transmit a copy of the summons to the head Officer of the office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an Officer or Soldier, the Court shall transmit a copy of the summons to the Commanding Officer of the Corps to which the defendant belongs, for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknowledgement of such person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall adopt such means of serving the summons as it may deem proper.

Service on a Corporation or Company.

LXIII. When the suit is against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the summons may be served by leaving the same at the registered Office (if any) of the Company, or sending it through the Post Office by a letter addressed to such Office, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or company.

In what case letter may be subtituted for a summons.

LXIV. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate

communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

Service how to be made in such case.

LXV. When a letter or other communication is substituted for a summons under the authority of the last preceding Section, it may be transmitted through the Post office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of judicial process, in which case delivery to such agent shall be deemed sufficient service.

Service by summons, letter, &c., transmitted through the post, how to be proved.

LXVI. Whenever it is provided that any summons, letter, or other communication may be transmitted to the person to whom it is addressed through the Post Office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to Section XXXVIII of Act XVII of 1854 (*for the management of the Post Office, for the regulation of the duties of Postage, and for the punishment of offences against the Post Office*), shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

OF SUITS AGAINST GOVERNMENT AND PUBLIC OFFICERS.

In suits against Government, summons to be served on Government Pleader. Appearance and answer.

LXVII. If the suit be against the Government, the summons shall be served on the Government Pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the Government, and may extend the time at its discretion on the application of the Government Pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

In suits against Government Officers for alleged official acts, summons to be served on them.

LXVIII. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner hereinbefore provided.

Court may grant extension of time for a reference to Government.

LXIX. If the Officer, on receiving the summons, shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channels; and the Court upon such motion may extend the time for so long as shall appear to it to be requisite.

If Government undertake defence, Government Pleader to appear and move that his appearance be noted in the Register.

LXX. If the Government shall undertake the defence of the suit, the the Government Pleader shall be furnished with authority to appear and answer to the plaint; and, upon motion made by him, the Court shall order a note to that effect to be entered in the Register.

If no such motion be made case to proceed between private parties. But defendant not liable to arrest before judgment.

LXXI. If such motion shall not be made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest before judgment.

Defendant may in certain cases be exempted from personal appearance.

LXXII. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance but he shall be liable to be examined in any way in which an absent witness may be examined.

HOW PERSONS NOT BEFORE THE COURT MAY BE MADE PARTIES TO A SUIT.

Court may adjourn hearing and direct that parties interested in the suit shall be made parties to it.

LXXIII. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in the subject matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit as the case may be. In such case the Courts shall issue a notice to such persons in the manner provided in this Act or the service of a summons on a defendant.

OF ARREST BEFORE JUDGMENT.

In suits for moveable property, when

LXXIV. If in any suit, not being a suit for land or other immoveable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or

defendant is about to leave jurisdiction &c., plaintiff may apply that security be taken.

delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed or of removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

Court may issue warrant to bring up defendant to show cause why he should not give bail.

LXXV. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree, it shall be lawful for the Court to issse a warrant to the proper Officer enjoining him to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

If defendant fail to show cause, Court may order him to give bail. Appeal.

LXXVI. If the defendant fail to show such cause, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit ; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court under the provisions of this Section shall be open to appeal by the defendant.

Deposit in lieu of bail.

LXXVII. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Defendant to be committed to custody if he cannot give security.

LXXVIII. In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be commited to costody until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree if the Court shall so order.

Compensation to defendant arrested on insufficient grounds. Proviso.

LXXIX. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of One Thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. And award of compensation under this Section shall bar any suit for damages in respect of such arrest.

When the defendant is about to leave British India, the application to be made to the Court.

LXXX. If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long, that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all repects the same as hereinbefore provided.

Of Attachment before Judgment.

In what cases plaintiff may apply before judgment for security from defendant to fulfil, decree, and, in default, for an attachment of defendant's property.

* LXXXI. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any property, moveable or immoveable, belonging to the defendant, shall be attached until the further order of the Court.

Application how to be made.

LXXXII. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof ; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

Form of warrant to be issued.

LXXXIII. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to

* Act VI of 1862 B. C. extends Section LXXXI and the nine following Sections as regard Bengal to all suits under that Act or Act X of 1859.

the proper Officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

If cause be not shown or security be not furnished, property may be attached. Withdrawal of attachment.

LXXXIV. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order. If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached the Court shall order the attachment to be withdrawn.

How the attachment is to be made. Appeal.

LXXXV. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money. Any order for the attachment of property under the preceding Section shall be open to appeal by the defendant.

Claims to property attached before judgment how to investigated.

LXXXVI. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

Attachment may be removed, when security is furnished.

LXXXVII. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security as above required, together with security for the costs of attachment.

Compensation for attachment applied for on insufficient grounds, &c. Proviso.

LXXXVIII. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of One Thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property. Provided, that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment.

Attachment not to affect the rights of persons not parties to the suit, or bar the execution of decrees.

LXXXIX. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant for applying for the sale of the property under attachment in execution of such decree.

Court may stay the sale of property attached, if the decree appear to have been fraudulently obtained.

XC. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reasonable ground for supposing that the decree, in satisfaction of which the sale of the property is applied for, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or, if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

Special case in which party may be put in immediate possession.

XCI. Whenever lands paying revenue to Government, or a tenure liable to summary sale under the provisions of Regulation VIII. 1819 of the Bengal Code *(to declare the validity of certain tenures and to define the relative rights of zemindars and Putnee Talookdars, &c.)*, form the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue or the rent due to the proprietor of the estate as the case may be, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the lands or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon, at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the suit.

OF INJUNCTIONS.

Cases in which an Injunction to stay waste &c., may be granted. Or in which

XCII. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged, or alienated by any party to the suit, it shall be lawful for the Court to issue an Injunction to such party, commanding him to refrain from doing the

A Receiver or Manager may be appointed.

When the Collector may be appointed Receiver.

particular act complained of, or to give such other orders for the purpose of staying and preventing him from wasting, damaging, or alienating the property, as to the Court may seem meet. And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a Receiver or Manager of such property, and, if need be, to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such Receiver or Manager, and to grant to such Receiver or Manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper. If the property be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be Receiver and Manger of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such Receiver.

Injunction to restrain repetition or continuance of breach of contract, &c. Proviso.

XCIII. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an Injunction to restrain the defendant from the repetition or the continuance of the breach of contract or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right; and such Injunction may be granted by the Court on such terms as to the duration of the Injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just, and in case of disobedience, such Injunction may be enforced by imprisonment in the same manner as a decree for specific performance: Provided always, that any order for an Injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Appeal.

XCIV. Any order made under either of the last two preceding Sections shall be open to appeal by the defendant.

Before granting Injunction, Court may direct notice to be given to the opposite party.

XCV. The Court may in every case, before granting an Injunction, direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Compensation to defendant for needless issue of Injunction. Proviso.

XCVI. If it shall appear to the Court that the Injunction was applied for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such sum, not exceeding One Thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the issue of the injunction. Provided, that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the Injunction.

Of the Withdrawal and Adjustment of Suits.

Court may allow plaintiff to withdraw from a suit, with liberty, to bring a fresh suit.

XCVII. If the plaintiff, at any time before final judgment, satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Adjustment or compromise. Court may grant certificate for refund of stamp duty on plaint, if suit be adjusted. Proviso.

*XCVIII. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. On the application of the plaintiff reciting the substance of such agreement, compromise, or satisfaction, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from

* See by Act X. 1862, Section 26.

the Collector the full amount of stamp-duty paid on the plaint, if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been examined. Provided however, that no such certificate shall be granted, if the adjustment between the parties be such as to require a decree to pass on which process of execution can be taken out.

OF THE DEATH, MARRIAGE, AND BANKRUPTCY OR INSOLVENCY OF PARTIES.

Suit not to abate by death in certain cases.

XCIX. The death of a plaintiff or defendant shall not cause the suit to abate, if the cause of action survive.

Proceeding in case of death of one of several plaintiffs or defendants, if the cause of action survive.

C. If there be two or more plaintiffs or defendants, and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs where the cause of action accrues to the survivor and representative of the deceased.

CI. If there be two or more plaintiffs, and one of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall survive to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representive of the deceased plaintiff. If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the judgment given in the suit, in the same manner as if the suit had proceed at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole or sole surviving plaintiff.

CII. In case of the death of a sole plaintiff or a sole surviving plaintiff, the Court may, on the application of the legal presentative of such plaintiff, enter the name of such representative in the place of such plaintiff in the Register of the suit and the suit shall thereupon proceed; if no such application shall be made to the Court, within what it may consider a reasonable time, by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

CIII. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of death of one of several defendants, or of a sole or sole surviving defendant.

CIV. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court, specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceeding in the suit.

Marriage of a female plaintiff or defendant not to abate the suit.

CV. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and, if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Bankruptcy or insolvency when not to abate the suit.

CVI. The bankruptcy or insolvency of the plaintiff, in any suit which the Assignee might maintain for the benefit of the creditors, shall not be a valid objection to the continuance of such suit, unless the assignee shall decline to continue the suit, and to give security for the costs thereof within such reasonable time as the Court may order; if the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy of the plaintiff as a reason for abating the suit.

OF NOTICES TO PRODUCE, AND HOW THEY ARE TO BE SERVED.

Two notices in writing to be delivered to the proper Officer of the Court.

CVII. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other thing has not previously been required under the provisions of Section 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same, and one of such notices shall be filed in Court to the Nazir or other proper Officer, to be served upon such party.

Service of process how to be made on a party who has not appointed a pleader to act for him.

CVIII. In all cases in which a party to a suit has not appointed a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCES OF NON-APPEARANCE.

Parties must appear in person or by pleader.

CIX. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person, or by a pleader, and the suit shall then be heard, unless the hearing be adjourned to a future day which shall be fixed by the Court.

If neither party appear, suit to be dismissed, with liberty to the plaintiff to bring a fresh suit.

CX. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party shall appear, either in person or by a pleader, when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this Section, the plaintiff shall be at liberty to bring a fresh suit, unless precluded by the rules for the limitation of actions; or, if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

If plaintiff only appear, Court may proceed ex parte, if due service of summons be proved. If defendant appear on day of adjourned hearing and assign good cause for his previous non appearance he may be hard.

CXI. If the plaintiff shall appear in person, or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex-parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

If plaintiff only appear, and due service of summons be not proved, Court may order second summons.

CXII. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If plaintiff only appear, and service of summons be proved, but not in due time, Court may adjourn hearing and direct notice to be given to defendant.

CXIII. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaion of the Court that the summons was served on the defendant, but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant.

If defendant only appear, Court to pass final judgment by default against plaintiff, unless defendant admit the claim.

CXIV. If the defendant shall appear in person or by a pleader, and the plaintiff shall not appear in person or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass judgment against the defendant upon such admission. When judgment is passed against a plaintiff by default he shall be precluded from bringing a fresh suit in respect of the same cause of action.

When there are several plaintiffs or de-

CXV. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them: and in

like manner, when there are two or more defendants, any one or more of them may be authorized to appear, plead, and act for the other or others of them; Provided, that the authority shall in all cases be in writing, and shall be filed in the Court; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act, were a pleader of the Court.

fendants, each may authorize the other to appear for him.

CXVI. If there are two or more plaintiffs, and one or more of them shall appear in person or by a pleader or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person or by a pleader or by a co-defendant duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order, with respect to the defendant or defendants who shall not have appeared, as shall be just and proper in the circumstances of the case.

Consequence of non-appearance of one of more of several plaintiffs, or defendants.

CXVII. If any plaintiff or defendant, who shall have been ordered or summoned to appear personally under the provisions of Section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants respectively, who do not appear either in person or by pleader.

Consequence of non-appearance, without sufficient cause, of any party to a suit ordered to appear in person.

CXVIII. In support of the cause shown by a plaintiff or defendant for failure to appear in person, the Court shall receive any declaration in writing on unstamped paper, if signed by such plaintiff or defendant, and verified in the manner hereinbefore provided for the verification of plaints.

Court to receive declaration in support of cause shown.

CXIX. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all cases in which judgment may be passed *ex parte* against a defendant, he may apply, within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court, that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit. In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the suit. But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party. In all cases in which the Court shall pass an order under this Section for setting aside a judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision, and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required for petitions.

No appeal from judgments passed ex parte or by default. When and how judgment ex parte may be set aside. When and how judgment by default may be set aside. No judgment to be set aside without notice. Order for setting aside judgment to be final. In appealable cause, appeal to lie from order of rejection. Proviso.

OF WRITTEN STATEMENTS.

CXX. The parties or their pleaders may tender, at the first hearing of the suit, written statements of their respective cases, and the Court shall receive the same and put them on the record. Such statements shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions.

Written statements may be tendered at the first hearing, on stamp paper.

CXXI. If in a suit for debt the defendant desire to set off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same, unless he abandon the excess.

Particulars of set-off to be given in a written statement. Abandonment of excess of set-off over claim.

CXXII. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before final judgment, to call for a written statement, or an additional written statement from any of the parties. When such statements are called for by the Court, they shall be received on plain paper.

No written statement to be received after first hearing, unless called for by the Court.

How written statements are to be framed. Written statements to be subscribed and verified.

CXXIII. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove, if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received, unless it be so subscribed and verified.

Court may reject a written statement if argumentative, prolix, or irrelevant.

CXXIV. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court, is argumentative, or unnecessarily prolix, or that it contains matter irrelevant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon; and it shall not be competent to a party whose written statement has been rejected for any of these causes, to present another written statement, unless it shall be expressly called for or allowed by the Court.

OF THE EXAMINATION OF THE PARTIES.

Oral examination of party, &c. Oath. Substance of the examination to be written.

CXXV. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the pleader of any party who appears by a pleader, or, if the pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person, may be examined orally by the Court. Such examination shall (unless the pleader be the person examined) be upon oath or affirmation, or otherwise according to the provisions of the law for the time being in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Consequence of refusal of party to answer.

CXXVI. If any party who appears in person or is present in Court shall, without lawful excuse, refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal or inability of pleader to answer.

CXXVII. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall attend in person on such day; and if the party so directed to attend shall, without lawful excuse, fail to appear in person on the day to be so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

OF THE PRODUCTION OF DOCUMENTS.

Documentary evidence to be produced at first hearing.

CXXVIII. The parties or their pleaders shall bring with them, and have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings or other things which may have been specified in any notice, which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce shall be received by the Court at any subsequent stage of the proceeding, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

Exhibits to be received and inspected by the Court. Rejection of Exhibits.

CXXIX. All Exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any Exhibit which it may consider irrelevant or otherwise inadmissible, recording the grounds of such rejection.

CXXX, CXXXI—Repealed by Act XXXVI. 1860. Section 13. Cl. 4.

Admitted Exhibits to be marked and filed Proviso.

CXXXII. When an Exhibit is received by the Court and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it and the date on which it was produced, and shall be filed as part of the record. Provided that, if the exhibit be an entry in any Shop book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy shall be endorsed as aforesaid, and shall be filed as part of the record and the book shall be returned to the party producing it.

CXXIII. Repealed by Act XXVI. 1867.

Rejected Exhibits to be marked and re-

CXXXIV. When an Exhibit is rejected by the Court, it shall be endorsed in the manner specified in Section 132 with the addition of the word "rejected"

and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who produced it, unless the Court shall think proper, for special reason (as on suspicion of forgery), to detain it.

Exhibit may be returned unless detained by the Court.

CXXXV. When the time for preferring an appeal from the decision passed in the suit has elapsed, or, if an appeal has been preferred from such decision, then after the appeal has been finally disposed of, any person whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same, unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice.

Exhibit may be returned before the time limited, for special reasons. Certified copy to be kept.

CXXXVI. Any exhibit may be returned before the time mentioned in the last preceding Section, if the Court in which the document may be shall think proper, for special reasons, to order its return. But in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Receipt to be given for returned Exhibit.

CXXXVII. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt-book kept for the purpose.

Court may send for papers. Except State papers.

CXXXVII. Any Civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public Office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State the production of which may be contrary to good policy), and inspect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Framing of issues.

OF THE SETTLEMENT OF ISSUES.

CXXXIX. At the first hearing of the suit, the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend. The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered by the parties or their pleaders.

After the time for appeal has elapsed, exhibit admitted in evidence may be returned.

CXL. If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court, or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be by summons or other suitable process.

Court may examine witnesses or documents before framing the issues.

CXLI. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Amendment of issues. Additional issues.

OF ISSUES BY AGREEMENT OF PARTIES.

CXLII. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

CXLIII. If the Court shall be satisfied, after an examination of the parties or their pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties and that the parties have a *bonâ fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so

Court if the agreement was executed bona fide may give judgment.

agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

WHEN THE SUIT MAY BE DISPOSED OF AT THE FIRST HEARING.

If the parties are not at issue on law or fact.

CXLIV. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are at issue on questions of law or fact. Court may determine the issue and give judgment. Proviso.

CXLV. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and, if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the the case may require. Provided, that if the summons shall have been issued for the final disposal of the suit, and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

OF ADJOURNMENTS.

Court may grant time, or adjourn. Proviso.

CXLVI. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties or to either of them, and may from time to time adjourn the hearing of the suit; and in all such cases the Court shall fix a day for the further hearing of the suit. Provided, that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

How the court is to proceed, if the parties fail to appear.

CXLVII. If, on any day to which the hearing of the suit may be adjourned the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in Section 110, Section 111, or Section 114 as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

Court to decide, notwithstanding either party fail to produce proofs or witnesses.

CXLVIII. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwithstanding such default.

OF SUMMONING WITNESSES.

Application for summons.

CXLIX. The parties or their pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded, if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce documents, and in any such summons the names of any number of persons may be inserted.

CL. Repealed by Act XXVI. of 1867.

Expenses of witnesses to be paid before issue of summons.

CLI. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate. The sum so paid into Court shall be tendered to the witness or other persons at the time of serving the summons, if it can be served personally. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence. If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Tender.

Insufficiency of sum.

Detention of witness.

CLII. Every summons for the attendance of a witness or other person shall specify the time and place at which he his required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the witness or other person may be called on to produce shall be described in the summons with convenient certainty.

Time, place and purpose of attendance to be specified.

CLIII. Any person, whether a party to a suit or not, may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce a document.

SERVICE OF SUMMONS ON A WITNESS.

CLIV. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

How and when the summons shall be served.

CLV. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend, but when he cannot be found, the service may be made on any adult male member of his family residing with him

Service to be on whom.

CLVI. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

When the summons cannot be served, it is to be returned.

CLVII. The serving Officer shall, in all cases, in which the summons has been served, endorse on the original summons the time when and the manner in which it was served.

Time and manner of service to be endorsed.

CLVIII. If the person required to attend be resident within the the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness resides, by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the Nazir or other proper officer of such Court, to be served in the manner above directed: and upon the return of the summons by the serving Officer, it shall be transmitted to the Court from whence it originally issued.

Service on a witness who resides in another jurisdiction.

CLIX. If the summons for the attendance of any person either to give evidence or to produce a document cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving Officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode; and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the moveable and immoveable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following Section.

When a witness absconds, his property may be attached.

CLX. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. If such witness or other person shall not appear, or appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

How to proceed with the witness on his appearance.

OF THE EXAMINATION OF PARTIES AS WITNESSES.

A party to a suit appearing in person may be examined.

CLXI. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

Special application for examination of a party as a witness.

CLXII. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show, to the satisfaction of the Court, sufficient grounds in support of such application, otherwise a summons shall not be issued.

The Court may first issue a notice to show cause.

CLXIII. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

Court shall receive a written declaration in support of the cause shown.

CLXIV. In support of the cause shown, the Court shall receive any declaration in writing of the party, on unstamped paper, if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

If cause not sufficient summons to issue.

CLXV. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

Court may of its own accord at any time summon a witness.

CLXVI. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may, of its own accord, in any stage of the suit, cause such party to be summoned to attend as a witness to give evidence, or to produce such document if in his possession or power, on a day to be appointed in the summons, and may examine such party as a witness in open Court, or may cause such party to be examined in such other manner as the Court may direct.

ATTENDANCE OF WITNESSES AND CONSEQUENCE OF NON-ATTENDANCE.

Witnesses summoned must attend.

CLXVII. Any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

Consequences of non-attendance

CLXVIII. If any person, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Section 155 shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections 159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequence of refusal to give evidence.

CLXIX. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for the punishment of persons refusing to give evidence.

Consequence of non-attendance or refusal of a party to the suit to give evidence.

CLXX. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without, lawful excuse, fail to comply with such order, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Any person present in Court may be called upon to give evidence.

CLXXI. Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

WHEN AND HOW WITNESSES ARE TO BE EXAMINED.

Witness to be examined at the hearing in open Court.

Evidence how to be taken in appealable cases.

CLXXII. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing and under the personal direction and superintendence of the Judge. In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by or in the presence and under the personal rection and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit or their pleaders, or such of them as are in attendance, and shall, if necessary, be corrected, and shall be signed by the Judge. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given. Where all the parties to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand. It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing or any party or his pleader shall require it. If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination. In cases in which the evidence is not taken down, in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record. In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall from part of the record.

Objection to questions.

Memorandum of substance of evidence to be made by Judge.

Evidence how to be taken in cases not appealable.

A witness may for sufficient cause be examined immediately.

CLXXIII. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his deposition shall be taken down in writing, in the manner hereinbefore prescribed: and the deposition so taken down may be read in evidence at any hearing of the suit.

Witness to be examined upon oath, or according to the law for the time being.

CLXXIV. All witnesses shall be examined upon oath or affirmation or otherwise, according to the provisions of the law for time being in force in relation to the examination of witness.

OF COMMISSIONS TO EXAMINE ABSENT WITNESSES AND MAKE LOCAL ENQUIRES.

Cases in which Court may issue a Commission to examine witnesses.

When the witness resides within the jurisdiction of the Court.

CLXXV. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court; the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a Commission to issue for the examination of such witness on interrogatories or otherwise; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just. If the witness be resident within the jurisdiction of the Court issuing the Commission, the Com-

mission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Court issuing the Commission may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of Her Majesty's Supreme Court, but within the jurisdiction of the Sudder Court, the Commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and which can most conveniently execute the same; but, under special circumstances, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

When within the jurisdiction of the Sudder Court.

CLXXVI. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes held under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*), but may, under special circumstances, be directed to any person or persons whom the Court issuing the Commission may think proper to appoint.

When within the jurisdiction of the Supreme Court.

CLXXVII. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sudder Court or of Her Majesty's Supreme Court, but within the British territories in India or within the territories of a Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its own motion or on the representation of any of the parties to the suit, issue a Commission for the examination of the witness; Provided that, if the suit be pending in any Court subordinate to the principal Civil Court of a District, such subordinate Court shall not issue the Commission, but the principal Civil Court of the District may issue the Commission on the application of the subordinate Court.

When witness is not within the jurisdiction of the Sudder or Supreme Court, but within the British Territories or those of any Native allied Prince or State.

CLXXVIII. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sudder Court, if the suit in which the evidence of the witness is required be pending in that Court and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission to examine the witness; if the suit be not pending in the Sudder Court, that Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint.

When witness is not within either of the said territories.

CLXXIX. After the Commission has been duly executed, it shall be returned, together with the deposition of the witness who may have been examined thereunder, to the Court out of which the Commission issued, unless otherwise directed by the order for issuing the Commission; in which case it shall be returned in terms of such order, and the Commission and the return thereto and the deposition of the witness who may have been examined under such Commission shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant without collusion more than a hundred miles from the place where the Court is is held, or exempted by reason of rank or sex from personal appearance in Court or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reaping the same.

Commission to be returned to the Court, with the depositions. When depositions may be read in evidence.

CLXXX. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an officer of the Court appointed to execute such Commissions, or, if there be no such officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of inquiry; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the report of the Commissioner, as they would incur for the same offences in suits tried before the Court. The Commissioner

Commission for local investigations. The report and depositions to be taken as evidence. Commissioner may be examined.

after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witness in the presence of the Judge, the depositions taken by him, shall return the depositions, together with his report in writing subscribed with his name, to the Court. The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

A Commissioner may be appointed to investigate accounts.

CLXXXI. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify, whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them, in which case the Court shall make such further inquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

Expenses of Commission to be paid into Court, before issue thereof.

CLXXXII. Whenever a Commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued.

OF JUDGMENT AND DECREE.

When judgment is to be pronounced.

CLXXXIII. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its Judgment. The Judgment shall be pronounced in open Court, either immediately or on some future day of which due notice shall be given to the parties or their pleaders.

Judgment to be in the vernacular language of the Judge. Proviso.

* CLXXXIV. The judgment shall be written in the vernacular language of the Judge. Provided that, if the vernacular language of the Judge be not English, and the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Judgment what to contain, Judgment to be translated.

CLXXXV. The judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court, the judgment shall be translated into the language in ordinary use in the Court, and the translations shall also be signed by the Judge.

Court to state its decision on each issue. Proviso.

CLXXXVI. In all suits in which issues have been framed, the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Judgment to direct by whom costs are to be paid.

CLXXXVII. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

What is included under the term "costs."

CLXXXVIII. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of Commissioners, either in taking evidence or in local investigations or in investigations into accounts.

Decrees.

CLXXXIX. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and

* This and following Two Sections and Section 359 suspended as regards the High Court by Act XX. 1862 Section 5.

shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit, and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court.

Decree for a portion of immoveable property.

CXC. When the suit is for land or other immoveable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

Decree for moveable property.

CXCI. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for damages for breach of contract.

CXCII. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court with the consent of the plaintiff may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

CXCIII. Repealed by Act XXIII, 1861, Sec. 1.

Payment by instalments.

CXCIV. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with interest.

If set-off be allowed. Effect of decree.

CXCV. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect, and be subject to the same rules, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

When the suit is for land, the Court may provide for payment of mesne profits with interest.

CXCVI. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent on such land or other property, from the date of the suit until the date of delivery of possession to the decree-holder, with interest thereupon at such rate as the Court may think proper.

Court may determine amount of mesne profits, or may reserve enquiry.

CXCVII.* When the suit is for land and for mesne profits which have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree, according as may appear most convenient.

Certified copies of the decree and judgment to be furnished.

CXCVIII. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps, where stamps are required by any law for the time being in force. The application may be made either orally or by writing on unstamped paper. *

CHAPTER IV.

EXECUTION OF DECREES.

Decree for immoveable property.

CXCIX. If the decree be for land or other immoveable property, the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for moveable property, performance of contract, or alternative.

CC. If the decree be for any specific movable, or for the specific performance of any contract, or for the performance of any other particular act, it shal, be enforced by the seizure, if practicable, of the specific moveable and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made, or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment, if necessary; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

Decree for money.

CCI. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant. When the decree is against Government or against any Officer acting on behalf of Government, if the Officer whose duty it is to satisfy the decree neglect or refuse to satisfy the same, the Court shall report the case through the Sudder Court for the orders of Government, and execution shall not issue on the decree, unless the same shall remain unsatisfied for the space of three months from the date of such report.

* Partly repealed by Act XXVI. 1867.

CCII. If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the Judge shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Decrees for execution of conveyance or endorsement of negotiable instruments.

CCIII. If the decree be against a party as the representative of a deceased person, and such decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

Decree against representatives of deceased persons.

CCIV. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

Decree against sureties.

CCV. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money bank-notes, cheques, bills of exchange, promissory notes, Government securities, bonds, or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking, or other Public Company or Corporation, and all other property whatsoever, moveable or immoveable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

What property liable to attachment and sale in execution.

CCVI. All monies payable under a decree shall be paid into the Court whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct. No adjustment of a decree in part or in whole shall be recognized by the Court, unless such adjustment be made through the Court, or be certified to the Court by the person in whose favour the decree has been made or to whom it has been transferred.

Payment of monies under decrees, &c. Adjustment of decree to be made through the Court.

Application for Execution.

CCVII. When any party in whose favour a decree has been made is desirous of enforcing the same, he shall apply to the Court whose duty it is to execute the decree, either in person or through his pleader in the suit, or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application for execution how to be made.

CCVIII. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree may be executed in the same manner as if the application were made by the original decree-holder.

Application by whom to be made, if decree be transferred.

CCIX. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

Cross-decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or by persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree, either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

CCX. If any person against whom a decree has been made shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative of the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

If judgment debtor shall die before execution, application may be made against his legal representative or estate.

Decree how to be executed against legal representative.

CCXI. If the decree be ordered to be executed against the legal representative, it shall be executed in the manner provided in Section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Form of application for execution of a decree.

CCXII. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree ; the amount of the debt or damages due upon it, or other relief granted by the decree ; the amount of costs, if any were awarded ; the name of the person against whom the enforcement of the decree is sought ; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person named, or attachment of his property, or otherwise as the case may be.

Further particulars, when the application is for an attachment of immoveable property.

CCXIII. When the application is for an attachment of any land or other immoveable property belonging to the defendant, it shall be accompained with an inventory or list of such property, containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the Register of the Collector's Office, specifying the Revenue of such estate, and the names and (where registered) the shares of the registered proprietors.

The application for an attachment of moveable property may be general, or accompanied with an inventory.

CCXIV. Where the application is for an attachment of the defendanty moveable property or any part thereof, it may be accompained with an inventors or list of the property to be attached, containing a reasonably accurate description thereof ; or the applicant may apply for a general attachment of the defendant's moveable property wheresoever the same can be found, to the amount of the judgment and costs.

CCXV. Repealed by Act XXIII, 1861, Section 1.

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

In special cases, notice to show cause why the decree should not be executed shall be issued. Proviso.

CCXVI. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for, requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. Provided, that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution ; and provided further, that no such notice shall be necessary in consequence of the application being against an heir or representative, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Procedure after issue of notice.

CCXVII. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the Court shall pass such order as in the circumstances of the case may appear to be just and proper.

Application for a general attachment of moveable property.

CCXVIII. Where the application is for a general attachment of the moveable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

Before granting order, Court may make certain enquiries.

CCXIX. Before granting the order for a general attachment, or, at the instance of the plaintiff, at any time after judgment and before complete execution of the decree. the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think

necessary and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

CCXX. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination of parties and witnesses after issues recorded shall apply to the party or witnesses so summoned.

Rules as to the summoning and examination of parties and witnesses after judgment.

ISSUE OF THE WARRANT.

CCXXI. When all necessary perliminary measures have been taken, where any such are required, the Court, unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Warrant when to issue.

CCXXII. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Nazir or other proper officer of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Nazir or other proper officer shall endorse upon the warrant the day and the manner in which it was executed, or, if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

OF THE EXECUTION OF DECREES FOR IMMOVEABLE PROPERTY.

CCXXIII. If the decree be for a house, land, or other immoveable property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf in possession thereof, and if need be, by removing any person who may refuse to vacate the same.

How immoveable property is to be delivered, when in the occupancy of a defendant or of some person under him.

CCXXIV. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, the substance of the decree in regard to the property.

How it is to be delivered, when in the occupancy of ryots.

CCXXV. If the decree be for the division of an estate, or for the separate possession of a share of an undivided estate, paying revenue to Government, the division of the estate or the separation of the share shall be made by the Collector under orders of the Court, according to the rules in force for the partition of an estate paying revenue to Government.

Division of estate or separation of share, how to be made.

CCXXVI. If in the execution of a decree for land or other immoveable property, the Officer executing the same shall be resisted or obstructed by any person, the person in whose favor such decree was made may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Obstruction to execution of decree for immoveable property.

CCXXVII. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant, or by some person at his instigation, on the ground that the land or other immoveable property is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper under the circumstances of the case.

Obstruction by defendant.

CCXXVIII. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff, and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

How defendant may be dealt with if he persists.

CCXXIX. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of the decree has been occasioned by any person, other than the defendant, claiming *bonâ fide* to be in possession of the property on his own account or on account of some other person than the defen-

Obstruction by a bona fide claimant, not defendant.

dant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Procedure in certain cases, if person dispossessed dispute the right of decree-holder to be put into possession.

CCXXX. If any person other than the defendant shall be dispossessed of any land or other immoveable property in execution of a decree, and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was *bonâ fide* in his possession, on his own account or on account of some other person than the defendant, and that he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession ; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

Appeal from decision under the last two Sections.

CCXXXI. The decision passed by the Court under either of the last two Sections shall be of the same force as a decree in an ordinary suit, and shall be subject to appeal under the rules applicable to appeals from decrees ; and no fresh suit shall be entertained in any Court between the same party or parties claiming under them in respect of the same cause of action.

Of the Execution of Decrees for Money by Attachment of Property.

Attachment of property in execution of decree for money.

CCXXXII. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

Attachment by seizure of moveable property in possession of defendant.

CCXXXIII. Where the property shall consist of goods, chattels, or other moveable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Nazir or other officer shall keep the same in his own custody, or in the custody of his subordinates, and be responsible for the due custody thereof.

Attachment, by prohibitory order, of moveable property to which defendant is entitled subject to a lien.

CCXXXIV. Where the property shall consist of goods, chattels, or other moveable property to which the defendant is entitled, subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment, by prohibitory order, of immoveable property.

CCXXXV. Where the property shall consist of lands, houses, or other immoveable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase gift, or otherwise.

Attachment, by prohibitory order, of debts not being negotiable instruments, and of shares in public Companies, &c.

CCXXXVI. Where the property shall consist of debts not being negotiable instrument, or of shares in any Railway, Banking, or other public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the Manager, Secretary, or other proper officer of the Company or Corporation from permitting any such transfer or making any such payment, until such further order.

Attachment, by notice, of money or Securities in deposit in a Court of Justice or with a Government Officer.

Proviso.

CCXXXVII. Where the property shall consist of money or of any security, in deposit in any Court of Justice or in the hands of any officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or effect, requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued. Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the Court in which such money or security is in deposit.

CCXXXVIII. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Nazir or other officer shall bring the same into Court, and such instrument shall be held subject to the further orders of the Court.

Attachment of negotiable instruments by seizure.

CCXXXIX. In the case of goods, chattels, or other moveable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. In the case of lands, houses, or other immoveable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and when the property is land or any interest in land, the written order shall also be fixed up in the office of the Collector of the Zillah in which the land may be situated. In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be delivered or sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any Railway, Banking, or other public Company or Corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the Manager, Secretary, or other proper officer of the Company or Corporation.

Prohibitory order, how to be made known.

CCXL. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order, after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, or otherwise, and any payment of the debt or debts or dividends or shares to the defendant, during the continuance of the attachment, shall be null and void.

Any private alienation after attachment to be void.

CCXLI. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court, and such payment shall have the same effect as payment to the party entitled to receive the debt.

Payment into Court by a debtor prohibited from making payment to his creditor.

CCXLII. In all cases of attachment under the preceding Sections, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank-notes, or a sufficient part thereof, shall be paid over to the party applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient part thereof, shall be paid to such party.

The Court may direct money or bank notes to be paid to the plaintiff; or other attached property to be sold, and proceeds to be paid to him.

CCXLIII. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immoveable property, it shall be competent to the Court to appoint a Manager of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the lands or other immoveable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts towards the payment of the amount of the decree and costs; or when the property attached shall consist of land, if the judgment debtor can satisfy the Court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land, or of any other property belonging to the judgment debtor, it shall be competent to the Court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper, to enable the judgment debtor to raise the amount. In any case in which a Manager shall be appointed under this Section, such Manager shall be bound to render due and proper accounts of his receipts and disbursments from time to time as the Court may direct,

Where the property attached consists of debts or immoveable property, a Manager may be appointed. Court may postpone sale of land, if satisfied that amount of judgment may be raised by mortgage, etc.

CCXLIV. When in any District, where land paying revenue to Government is ordinarily sold by the Collector, as provided in Section 248, the property attached shall consist of any such land, or of a share in any such land, if the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a public sale of the land or share.

When Court may authorize Collectors to stay public sale of land.

CCXLV. If the amount decreed, with costs and all charges and expenses which may be incurred by the attachment, be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a

Order for withdrawal of attachment after satisfaction of decree.

sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment; and such steps shall be taken as may be necessary for staying further proceeding in execution of the decree.

Of claims to Attached Property.

How claims and objections to sale of attached property are to be investigated.

CCXLVI. In the event of any claim being preferred to or objection offered against, the sale of lands or any other immoveable or moveable property, which may have been attached in execution of a decree or under any order for attachment passed before judgment, as not liable to be sold in execution of a decree against the defendant, the Court shall, subject to the proviso contained in the next succeeding Section, proceed to investigate the same, with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in Section 220. And if it shall appear to the satisfaction of the Court, that the land or other immoveable or moveable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was in possession of the party against whom execution is sought, as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, the Court shall disallow the claim. The order which may be passed by the Court under this Section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right, at any time within one year from the date of the order.

Claims and objections to be preferred at the earliest opportunity.

CCXLVII. The claim or objection shall be made at the earliest opportunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies shall have been advertized for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Section. Provided, that no such investigation shall be made, if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice. The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

Of Sales in execution of Decrees.

Sales to be by public auction. Except as to negotiable securities and shares in public Companies. Sale by Collector of lands paying revenue to Government.

CCXLVIII. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that, if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market-rate of the day. If the property to be sold shall be land paying revenue to Government and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

Notification of sales by public auction. Time of sale.

CCXLIX. In all cases of intended sale by public auction, whether of moveable or immoveable property, in execution of a decree, a proclaimtion of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the estate when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum, or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land, or of any right or interest in land, the written notification shall also be affixed in the office of the Collector of the District in which such land is situ-

ate, and in the Court-house of the principal Civil Court of the District where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

The process for attachment and sale may in certain cases be issued simultaneously.

CCL. The usual process for attachment and sale, when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either successively or simultaneously, as the Court directing the sale may in each instance think proper.

Mode of payment on sale of moveable property.

CCLI. In all cases of sale of moveable property, the price of every lot shall be paid for at the time of sale, or as soon after as the officer holding the sale shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Irregularity not to vitiate sale of moveable property.

CCLII. No irregularity in the sale of moveable property under an execution shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Deposit by purchaser in case of sale of immoveable property.

CCLIII. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

At what time full amount of purchase money to be made good. Defaulting purchaser answerable for for loss by resale.

CCLIV. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defualting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

Notification on re-sale of immoveable property.

CCLV. Every re-sale of immoveable property in default of payment of the purchase money shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sales.

Confirmation of sale.

CCLVI. No sale of immoveable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity, unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

CCLVII. If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal; and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final; and the party against whom the same has been given shall be precluded from bringing a suit for establishing his claim.

CCVIII. Whenever a sale of immoveable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest in such manner as it may appear proper to the Court to direct in each instance.

Certificates to be granted to the purchaser of land.

CCLIX. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to state the name of actual purchaser.

CCLX. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certificate purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Delivery of moveable property in possession of defendant.

CCLXI. Where the property sold shall consist of goods, chattels, or other move-able property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which defendant is entitled subject to lien.

CCLXII. Where the property sold shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of immoveable property in the occupancy of defendant etc.

CCLXIII. If the property sold shall consist of a house, land, or other immoveable property, in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be by removing any person who may refuse to vacate the same.

Delivery of immoveable property in the occupancy of ryots, etc.

CCLXIV. If the property sold shall consist of land or other immoveable property in the occupancy of ryots or other person entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Delivery of debts not being negotiable instruments, and of shares in public Companies.

CCLXV. Where the property sold shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of negotiable securities actually seized.

CCLXVI. Where the property sold shall consist of negotiable securities of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Transfer of securities and shares.

CCLXVII. If the endorsement or conveyance of the party, in whose name any negotiable security of any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share, or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form, or to the like effect —" A. B. by C D. Judge of the Court of *(or as the case may be)*, in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made, or document executed or receipts signed as aforesaid, shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Resisting or obstructing purchasers in obtaining possession.

CCLXVIII. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property the provisions contained in Sections 226, 227, and 228, relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Obstruction by claimants other than defendants.

CCLIX. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person, other than the defendant, claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given shall be liberty to bring a suit to establish his right at any time within one year from the date thereof.

CCLXX. Whenever property is sold in execution of a decree, the person on whose application such property was attached shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same by another party in execution of a prior decree.

Attaching creditor to be first paid out of proceeds of sale.

CCLXXI. If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons, who, prior to the order for such distribution, may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof. Provided that, when any property is sold subject to a mortgage, the mortgagee shall not be entitled to share in any surplus arising from such sale.

Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution.

CCLXXII. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose, if such other decree be a decree of that Court; or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

Another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

Of Arrest in execution of Decrees for Money.

CCLXXIII. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade) and of the places respectively where such property is to be found, or shall state that, with the exceptions above-mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying plaints.*

On what grounds, application for discharge may be made. Form of application Verification.

CCLXXIV. Repealed by Act XXIII, 1861, Section 1.

CCLXXV. The discharge of the defendant under the last preceding Section shall not protect him from being arrested again and imprisoned, if it should be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

Defendant liable to be again arrested, if proved guilty of fraudulent concealment of property, &c.

Of the execution of Decrees by Imprisonment.

CCLXXVI. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed, to the proper Officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Subsistence money of a defendant in gaol, how fixed and furnished.

CCLXXVII. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown.

Court may vary the allowance in case of illness, or for other special cause.

CCLXXVIII. A defendant shall be released at any time on the decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as above directed. No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred Rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty Rupees.

Release of defendant. Imprisonment not to be longer than 2 years. Six months, if decree for money not exceeding Rs. 500 Three months, if not exceeding Rs. 50.

CCLXXIX. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the property of the defendant under the foregoing rules;

Subsistence money to be added to amount of decree.

* See Act XXIII of 1161 Sect. 8.

but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Application by prisoner for discharge on surrender of all property Verification.

CCLXXX. Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy ior in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him, (except the necessary wearing apparel of himself and his family and the necessary implements of his trade,) and of the places respectively where such property is to be found; and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Procedure on such application. Defendant to be discharged on plaintiff failing to prove fraud concealment. Otherwise debtor's imprisonment may be extended to two years: and he may be further dealt with criminally.

CCLXXXI. On such application being made, the Court shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall, within the time specified, or at any subsequent period, prove to the satisfaction of the Court that the defendant has been guilty of any of the acts above-mentioned, the Court shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if it shall think proper, send the defendant to the Magistrate to be dealt with according to law.

Defendant's property to continue liable even after his discharge. When Court may declare a defendant absolved from further liability.

CCLXXXII. A defendant once discharged shall not again be imprisoned on account of the same decree, except under the operation of last preceding Section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied unless the decree shall be for a sum less than one hundredRupees and on account of a transaction bearing date subsequently to the passingof this Act. When the decree shall be for of a sum less than one hundred Rupees and on acount of a transaction bearing date as above, the Court may de-clare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

CCLXXXIII. Repealed by Act XXIII. 1861, Sec. 1.

OF EXECUTION OF A DECREE OUT OF THE JURISDICTION OF THE COURT BY WHICH IT WAS PASSED.

How a decree of one Court may be executed within the jurisdiction of another.

CCLXXXIV. A dscree of any Civil Court within any part of the British territories in India, or established by the authority of the Governor General of India in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same may be executed within the jurisdiction of any other such Court in the manner following.

Application for such execution.

CCLXXXV. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been passed to the Court by which the applicant may wish the decree to be executed.

Copy of decree and other for execution to be transmitted.

CCLXXXVI. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared: and the same, after being signed by the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant, if that Court be within the same District, otherwise to the principal Civil Court of original jurisdiction in the District in which the applicant may wish the decree to be executed; and the Court to which such copies and certificates are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court or of the signature of any Judge, unless it shall, under any peculiar circumstances to be specified in an order, require such proof.

Decree or order transmitted, to be executed as that of the Court.

CCLXXXVII. The copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

CCLXXXVIII. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the same according to its own rules in the like cases; Provided, that such Court shall have no power to inquire into the validity of the decree, unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

Execution how to be enforced by Court applied to.

CCLXXXIX. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of such decree shall be punishable by by such Court in the same manner as if the decree had been made by such Court.

Irregularities in executing decree to be punished by Court applied to.

CCXC. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

Court applied to may in certain cases stay execution, &c.

CCXCI. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from, or impose such conditions upon, the defendant, as it may deem reasonable.

Before staying execution, Court may require security or impose conditions.

CCXCII. Any order of the Court in which the decree was passed, or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

Order of Court passing decree or of Appellate Court, to be binding upon Court applied to.

CCXCIII. No discharge of a defendant under the provisions of Section 290 shall prevent him from being retaken in execution of the decree.

Liability of defendant discharged, to be retaken.

CCXCIV. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

Appeals from orders for execution.

CCXCV. If, in execution of a decree, a warrant of arrest or other process is to be enforced within the limits of a Garrison, Cantonment, Military Station, or Military Bazar, the Officer entrusted with the execution of such warrant or other process shall carry the same to the Commanding Officer, or in his absence to the Senior Officer actually present in the Garrison, Cantonment, Station, or Military Bazar; and the Commanding Officer or such Senior Officer, upon such warrant or other process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested, if within the limits of his command, and delivered according to the exigency of the warrant to the Civil Officer charged with the execution thereof.

Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantonments, &c.

CCXCVI. The rules contained in this Chapter shall be applicable to the execution of any judicial process for the sale of property or for the payment of money, which may be ordered by a Civil Court in any Civil proceeding.

These Rules to be applicable to all Civil process for sale of property, &c.

CHAPTER V.

OF PAUPER SUITS.

CCXCVII. A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

Suits may be brought in forma pauperis.

CCXCVIII. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

What suits excepted.

CCXCIX. The application to the Court for permission to sue *in formâ pauperis* shall be by petition, which shall be written on a stamp paper of the value of eight annas.

Application to be by petition on stamp paper.

CCC. The petition shall contain the particulars required by Section 26 of this Act in regard to plaints, and shall have annexed to it a Schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints:

Petition what to contain.

How to be presented. Examination of petitioner, if a female, how to be taken.

CCCI. The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female, who, according to the custom and manners of the country, ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application, and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Petition to be rejected, if not in form.

CCCII. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject the petition.

If in form, Court how to proceed. If presented by an agent Court may order petitioner to be examined as an absent witness.

CCCIII. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner as the case may be, regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may also, if it think proper, order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

Court may reject the application.

CCCIV. If it appear to the Court upon such examination, that the defendant or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

Notice to opposite party.

CCCV. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

After a summary inquiry, the Court to pass a final order.

CCCVI. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

Court may direct a local enquiry.

CCCVII. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry, in the manner laid down in Section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Course of proceeding, if application be admitted.

CCCVIII. If the application of the petitioner be granted, it shall be numbered and registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff shall not be liable to any further stamp duty in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

On the decision of the suit, costs how to be calculated.

CCCIX. On the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

Refusal to allow to sue as a pauper, to bar any subsequent application of the like nature.

CCCX. The refusal to allow the petitioner to sue as a pauper shall be a bar to any subsequent application of the like nature in respect of the same of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

No appeal from orders under this chapter.

CCCXI. The orders passed by the Court under the provisions of this Chapter shall not be subject to appeal.

CHAPTER VI.

REFERENCE TO ARBITRATION.

Reference to arbitration on application of the parties.

CCCXII. If parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Application how to be made.

CCCXIII. The application shall be made by the parties in person, or by their pleaders specially authorized in that behalf by an instrument in writing

which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Nomination and appointment of arbitrators.

CCCXIV. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Order of reference.

CCCXV. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such a time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

When the reference is to two or more, the order shall provide for difference of opinion.

CCCXVI. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

Summoning witnesses, punishment of contempts, &c.

CCCXVII. When a reference is made to arbitration by an order of Court, the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined, as the Court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempet to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

Extension of time for making award.

CCCXVIII. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating that they cannot agree. Provided, that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the arbitrator or arbitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

In case of death, incapacity, or refusal to act as Arbitrators or Umpire, Court may appoint others instead.

CCCXIX. If, in any case of reference to arbitration by an order of Court the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Section, the arbitrator or arbitrators or umpire so appointed shall have the like power to act in the reference, as if their name or names had been inserted in the original order of reference.

Award how to be submitted to Court.

CCCXX. When an award in a suit shall be made either by the arbitrator or arbitrators or by the umpire, it shall be submitted to the Court under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Arbitrator may state special case.

CCCXXI. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference by an order of Court, if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Court may, on application, modify or correct an award in certain cases. And make order respecting costs.

CCCXXII. The Court may on the application of either party modify or correct an award, where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is

imperfect in form or contains any obvious error which can be amended without affecting such decision. The Court may also on such application make such order as it thinks just repecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

In what cases Court may remit the award or any of the matters referred to arbitration for reconsideration.

CCCXXIII. In any of the following cases the Court shall have power to remit the award, or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say)—

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration.

If the award is so indefinite as to be incapable of execution.

If an objection to the legality of the award is apparent upon the face of the award.

Award not to be set aside, except on ground of corruption. Application to set aside the award.

CCCXXIV. No award shall be liable to be set aside, except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the Court.

Judgment to be according to the award.

CCCXXV. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award, or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and upon the judgment which shall be so given decree shall follow, and shall be carried into execution in the same manner as other decrees of the Court. In every case in which judgment shall be giving according to the award, the judgment shall be final.

Agreement of parties to refer to arbitration may be filed in the Court. Provisions of this Chapter applicable.

CCCXXVI. When any persons shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement, or to be appointed by any Court having jurisdiction in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties; or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shewn against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon. The several provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court, and to the award of arbitration and to the enforcement of such award.

Filing in Court an award, when the matter was referred to arbitration without intervention of Court. Enforcement of such award.

CCCXXVII. When any matter has been referred to arbitration without the intervention of any Court of Justice, and an award has been made, any person interested in the award may, within six months from the date of the award, make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause within a time to be specified, why the award should not be filed. The application shall be written on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this Chapter.

CHAPTER VIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

HOW QUESTIONS MAY BE RAISED FOR THE DECISION OF A CIVIL COURT BY ANY PERSONS INTERESTED.

Questions of fact, or of law or equity,

CCCXXVIII. Parties interested or claiming to be interested in the decision of any question of fact or law may enter into an agreement, which shall be subject

to the same stamp duty as prescribed for plaints in suits, that, upon the finding of a Court in the affirmative or negative of such question of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property moveable or immoveable, or for the doing or performing or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

may be raised by agreement for the decision of any Court having jurisdiction.

CCCXXIX. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Agreement to be filed and numbered as a suit.

CCCXXX. After the agreement shall have been filed, all the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Parties to be subject to the Court's jurisdiction.

CCCXXXI. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders, or taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bonâ fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try or hear the same, and deliver its finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise according to the terms of the agreement, and, upon the judgment which shall be so given, decree shall follow and may be executed, in the same way as if the judgment had been pronounced in a contested suit.

Hearing and disposal of the case.

CHAPTER VIII.

OF APPEALS.

CCCXXXII. Repealed by Act XXIII, 1861. Sec. 1.

HOW APPEALS ARE TO BE PREFERRED.

CCCXXXIII. Appeals shall be made in the form of a memorandum which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of the Appellate Court for not having presented it within such limited period; that is to say, within thirty days if the appeal be to a District Court, and within ninety days if the appeal be to the Sudder Court. The days shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against.

Appeal to be preferred by a memorandum to be presented to the Appellate Court within specified time.

CCCXXXIV. The memorandum of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

What the memorandum is to contain.

CCCXXXV. The memorandum of appeal shall be in the following form or to the following effect, and shall be accompanied by a copy of the decree appealed against—

Form of memorandum.

Memorandum of Appeal.

(Name, &c. as in Register.) ... ... Plaintiff.
(Name, &c. as in Register.) ... ... Defendant.

[Name of Appellant] Plaintiff [or Defendant] abovenamed appeals to the Sudder Court at or Zillah Court at as the case may be], against the decree of in the above suit, dated the day of ; for the following reasons, namely, [*here state the reasons.*]

If memorandum be not in form or duly presented.

CCCXXXVI. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be rejected.

One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree, if it proceed on a ground common to all.

CCCXXXVII. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the Lower Court proceed on any ground common to all, any one of the plaintiffs or defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favor of all the plaintiffs or defendants.

OF STAYING AND EXECUTING DECREES UNDER APPEAL.

Execution of decree may be stayed on appeal; but only if sufficient cause be shown. Court before, making such order, shall require security for due performance of decree or order of Appellate Court.

CCCXXXVIII. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the Appellate Court may, for sufficient cause shown, order that execution be stayed. If application for execution be made before the time allowed for appeal has expired, and the Lower Court has not received intimation of an appeal having been preferred, the Lower Court, if sufficient cause been shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

CCCXXXIX. Repealed by Act XXIII, 1861. Sec. 1.

No such security to be required from Government or from any public Officer.

CCCXL. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding Sections shall in any case be required from Government or from any public officer.

OF PROCEDURE IN APPEALS FROM DECREES.

How the appeal is to be entered. Form of the Register.

CCCXLI. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the Appellate Court, or the proper officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the Register of Appeals. Such Register shall be in the form contained in the Schedule (C) hereunto annexed.

Appellate Court may require security for costs from appellant. Proviso.

CCCXLII. It shall be in the discretion of the Appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer. Provided that the Court shall demand such security in all cases in which the appellant is residing out of the British Territories in India, and is not possessed of any land or other immoveable property within those territories independent of the property to which the appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal, or within such time as the Court shall order, the Court shall reject the appeal.

Appellant to send intimation to lower Court of appeal being registered. Lower to transmit papers to appellate Court. Either party may give notice of exhibits of which he requires copies.

CCCXLIII. When the memorandum of appeal has been registered, the Appellate Court shall send intimation thereof to the Lower Court. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Lower Court shall, upon the receipt of the intimation, transmit to the Appellate Court with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court. Either party may give notice in writing to the Lower Court, specifying any exhibits of which he requires copies to be made and deposited in the Lower Court. and copies of such exhibits shall be prepared at the expense of the party giving the notice, and shall be deposited in the Lower Court.

Day of hearing the appeal, how to be fixed.

CCCXLIV. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Publication and service of notice of the day fixed. Form of notice.

CCCXLV. Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Lower Court, and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof shall apply to the service of such notice. The notice to the respondent shall contain an intimation, that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *exparte* in his absence. Provided that, if the respondent has appointed a pleader to appear in his behalf in the Appellate Court, the service of the notice on such pleader shall be sufficient.

CCCXLVI. If, on the day fixed for hearing the appeal or any other day subsequent thereto to which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default. If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex parte* in his absence.

Consequence of non-appearance.

CCCXLVII. If an appeal be dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court may re-admit the appeal.

Re-admission of appeals dismissed for default of prosecution.

CCCXLVIII. Upon the hearing of the appeal, the respondent may take any objection to the decision of the Lower Court, which he might have taken if he had preferred a separate appeal from such decision.

Respondent may object to decision of Lower Court.

CCCXLIX. The Appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

Appellate Court how to give judgment.

CCCL. The judgment may be for confirming or reversing or modifying the decree of the Lower Court. But no decree shall be reserved or modified, nor shall any case be remanded to the Lower Court on account of any error, defect, or irregularity, either in the decision or in any interlocutory order passed in the suit, not affecting the merits of the case or the jurisdiction of the Court.

No decision to be reversed for irregularity

CCCLI. If the Lower Court shall have disposed of the case upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree of the Lower Court upon such preliminary point shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal, to the Lower Court, with directions to restore the suit to its original number in the Register, and proceed to investigate the merits of the case, and pass a decree therein.

When a case may be remanded by Appellate Court.

CCCLII. It shall not be competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section.

Power to remand limited as above.

CCCLIII. When the evidence upon the record of the Lower Court is sufficient to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

When the evidence is sufficient the Appellate Court must determine the case.

CCCLIV. If the Lower Court shall have omitted to raise or try any issue, or to determine any question of fact, which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame an issue or issues for trial by the Lower Court, and may refer the same to the Lower Court for trial. Thereupon the Lower Court shall proceed to try such issue or issues, and shall return to the Appellate Court its finding thereon together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of any objection to the finding; and after the expiration of the period so fixed, the Appellate Court shall proceed to determine the appeal.

Trial of issues by Lower on reference from Appellate Court.

CCCLV. It shall not be competent to the parties in an appeal to produce additional evidence in the Appellate Court, whether of exhibits or witnesses; but if it appear that the Lower Court refused to admit competent evidence, or if the Appellate Court require any exhibits to be produced or witnesses examined to enable it to pronounce a satisfactory judgment, or for any other substantial cause, the Appellate Court may allow additional exhibits to be received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not: Provided that, whenever additional evidence is admitted by an Appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

Parties not to produce additional evidence in Appellate Court Court may call for it.

CCCLVI. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence before itself, or to require the Lower or any other Court, or to empower any person, to take such evidence and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such evidence shall be taken.

How additional evidence is to be taken.

Points to be defined.

CCCLVII. In all cases where additional evidence is permitted to be taken the Appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

CCCLVIII. Repealed by Act XXIII, 1861, Sec. 1.

Judgment of the Appellate Court.

In what language.

CCCLIX. The judgment of the Appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge or by the Judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language; but if the Judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the Judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into such language, and the translation shall be signed by the Judge or Judges. Any Judge dissenting from the judgment of the Court shall state his opinion in writting, which shall form part of the record.

Dissent to be recorded.

What the decree is to contain.

CCCLX. The decree of the Appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the parties appellant and respondent, and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the Judge or Judges who passed it, and shall be sealed with the seal of the Court. If there be a difference of opinion among the Judges of the Court, it, shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such Judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same manner as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

A certified copy to be transmitted to the Lower Court.

CCCLXI. A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the proper Officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall made in the original Register of the suit.

Decree how to be executed.

CCCLXII. Application for execution of the decree of an Appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by that Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

APPEALS FROM ORDERS.

No appeal from an order passed before decree, but error or defect therein may be objected to on appeal.

CCCLXIII. No appeal shall lie from any order passed in the course of a suit and relating thereto, prior to decree; but if the decree be appealed against, any error, defect, or irregularity in any such order, affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

No appeal from order relating to the execution of decree except as provided.

CCCLXIV. No appeal shall lie from any order passed after decree and relating to the execution thereof, except as is hereinbefore expressly provided.

Appeal from orders as to fines or imprisonment.

CCCLXV. All orders as to fines or the levying thereof, or as to imprisonment under this Act (except when the imprisonment is in execution of a decree) shall be subject to appeal.

Procedure in appeals from orders.

CCCLXVI. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon shall be in all respects the same as in an appeal from a decree.

CHAPTER IX.

OF APPEALS IN FORMA PAUPERIS.

Who may appeal as pauper.

CCCLXVII. Any party to a suit, who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from the decision, subject to all the rules contained in the last preceding Chapter and in Chapter V in so far as they are applicable.

Application to whom and when to be presented.

CCCLXVIII. The application to be allowed to appeal *in formâ pauperis* shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the Sudder Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of appeal.

CCCLXIX. The application shall contain the particulars required to be set forth in the memorandum of appeal, and shall be drawn up in the like manner. It shall have annexed to it a Schedule of any moveable or immoveable property belonging to the applicant, with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made. From of application

CCCLXX. If the Appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust, it shall reject the application. If the application be not rejected upon any of the grounds abovementioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the Appellate Court, or by the Court from whose decision the appeal is made under the orders of the Appellate Court. Provided that, if the applicant was allowed to sue *in formâ pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry. Procedure.

CCCLXXI. The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis*, whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on a stamp of the value prescribed for appeals from decrees. Effect of order by Appellate Court.

CHAPTER X.

OF SPECIAL APPEALS.

CCCLXXII. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sudder Court from all decisions passed in regular appeal by the Courts subordinate to the Sudder Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground. Special appeals to Sudder Court. Grounds of special appeal.

CCCLXXIII. The application for the admission of a special appeal shall be presented in the Sudder Court within the period prescribed for the presentation of a memorandum of appeal, and shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance. The application shall be written on a stamp paper of the value prescribed for the regular appeals; but if the applicant be unable to pay for the stamps required for the prosecution of the appeal, the Sudder Court may admit him to appeal as a pauper, subject to all the rules contained in Chapter IX in respect to appeals from decrees *in formâ pauperis*, in so far as the same may be applicable. Application to be presented to the Sudder Court.

CCCLXXIV. The application shall set forth concisely the grounds of objection to the decision appealed against, without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie. From of application.

CCCLXXV. Repealed by Act XXIII, 1861, *Sec.* 1.

CHAPTER XI.

REVIEW OF JUDGMENT.

CCCLXXVI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a Superior Court—or by a decree of a District Court in appeal from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him—may apply for a review of judgment by the Court which passed the decree. Review of judgment. On discovery of new evidence &c.

CCCLXXVII. The application shall be made within ninety days from the date of the decree, unless the party preferring the same shall be able to show just Within what time and on what paper the

application should be made.

and reasonable cause, to the satisfaction of the Court, for not having preferred such application within the limited period. If the application be made within the period above-mentioned, it shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required; but if made after the expiration of that period, it shall be written on the stamp paper prescribed for plaints.

The order for granting or refusing review to be final.

CCCLXXVIII. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court shall grant the review, and its order in either case, whether for rejecting the application or granting the review, shall be final. Provided, that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

Application for a review in the Sudder Court must be made to the Judges that passed the decree.

CCCLXXIX. If the Court to which the application for a review of its judgment has been presented be a Court consisting of two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

Procedure on application being granted.

CCCLXXX. When an application for a review of judgment is granted, a note thereof shall be made in the Register of suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

CHAPTER XII.

MISCELLANEOUS.

CCCLXXXI. Repealed by Act XXIII, 1861, Sec. 1.

Act not to extend, except in certain cases to Supreme and presidency Small Cause Courts.

CCCLXXXII. Except so far as relates to the examination of witnesses under Commission *and to the execution of decrees out of the jurisdiction of the Courts by which they were passed*,* this Act shall not extend to any suit instituted in any Court of Judicature established by Royal Charter or in any Court for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.

Saving of jurisdiction and procedure of certain Village and Military Courts.

CCCLXXXIII. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request; or the jurisdiction or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in military bazars at Cantonments and Stations occupied by the troops of those Presidencies respectively; or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

Saving of certain special or local Laws. To what extent this Act applies to them.

CCCLXXXIV. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jagheerdars and other authoritie sinvested with powers under the provisions of Regulation XIII. 1830 of the Bombay Code (*for vesting certain Jagheerdars, Surinjameedars, and Enamdars with the power of deciding suits within the boundaries of their respective estates*) and Act XV. of 1840 (*for extending Regulations XV. 1827 and XIII. 1830 of the Bombay Code to the Agent of Foreign Sovereigns*) or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI. 1816 of the Bengal Code (*for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack*), or cases of the nature defined in Regulation XXIX. 1827 (*for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh*), Regulation VII. 1830 (*for bringing under the operation of the Regulations the territories comprised in the Southern Mahratta Country*), Regulations I and XVI, 1831 of the Bombay Code (*for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country, over suits in which certain privileged persons are concerned*), Act XIX of 1835 (*relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekhan*), and Act XIII of 1842 (*to enable the holders of revenue which has been alienated*

* See Act X 1861, repealing Acts VII of 1841, in toto, and Acts XXXIII 1852, and XXXIV of 1855, except as to cases of Decree by Supreme Courts.

to them by the State to collect that revenue within the Presidency of Bombay), except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the regulations and Acts above quoted.

Act not to take effect in places not subject to the general Regulations, until extended thereto.

CCCLXXXV. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate, and notified in the Gazette.*

Interpretation.

CCCLXXXVI, The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"District."

The local jurisdiction of a Principal Civil Court of original jurisdiction shall be deemed a "District" for the purposes of this Act; and the words "District Court" shall mean such Court.

"District Court."

"Sudder Court."

In any part of the British territories in India to which this Act may be extended under the provisions of Section 385, the expression "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in such part of the said territories.†

Commencement of operation of Act.

CCCLXXXVII. This Act shall come into operation in the Presidency of Bengal from the 1st day of July 1859, and in the presidencies of Madras and Bombay from the 1st day of January 1860, or from such earlier day as the Local Government in those Presidencies respectively shall fix and shall publicly notify in the Gazette of the Presidency three months at least before the date so fixed. But if, in any suit pending at the time when this Act shall come into operation, it shall appear to the Court that the application of any provision of this Act would deprive any party to the suit of any right in reference to the procedure of the suit, whether of appeal or otherwise which but for the passing of this Act would have belonged to him, the Court shall proceed according to the law in force before this Act takes effect.

Pending suits.

Where Act comes into operation, procedure of Civil Courts of be regulated by it only.

CCCLXXXVIII. From and after the time when this Act shall come into operation in any part of the British territories in India, the procedure of the Civil Courts in such part of the said territories shall he regulaton by this Act and except as otherwise provided by this Act, by no other Law or Regulation.

* See Act IV, 1860, Section 3, and Act XXIII, 1861.
† See Act IX, 1863.

SCHEDULE A.

COURT of the of holden at

REGISTER OF CIVIL SUITS in the year 18 .

Date of presentation of plaint.	No of Suit.	PLAINTIFF.			DEFENDANT.			CLAIM.			APPEARANCE.			JUDGMENT.			APPEAL.		EXECUTION.					RETURN OF EXECUTION.		
		Name	Description	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for Parties to appeal.	Plaintiff.	Defendant.	Date.	For whom.	For what, or Amount	Date of Appeal.	Judgment in Appeal.	Date of Application.	Date of order.	Against whom.	For what, and Amount if Money.	Amount of Costs	Amount paid into Court.	Arrested.	Minute of other Return than Payment or Arrest, and Date of every Return.

SCHEDULE B.

No. of Suit.

In the Court of at

Plaintiff.
Defendant.

(Name, description, and address.)

Whereas[*here enter the name, description, and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the Register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not specially required to appear in person state—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"*]to answer the above-named plaintiff. [*if the summons be for the final disposal of the suit, this further direction shall be added here ; " and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"*]: and you are hereby required to take notice, that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence ; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE C.

COURT at

REGISTER OF APPEALS from DECREES in the year 18

Date of memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode	Name,	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondant.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE D.

SUDDER COUT at

REGISTER OF SPECIAL APPEALS.

Date of Memorandum.	No. of Appeal.	APPELLANT			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date,	Confirmed reserved, or altered.	For what or Amount.

ACT No. IX OF 1859.

(Received the assent of the Governor General on the 30th April 1859.)

1. *Courts of Special Commission to be established. Proviso.*
2. *Court to consist of three Commissioners.*
3. *Notification of establishment of Court in any District.*
4. *Transfer of pending suits.*
5. *Court where to be held.*
6. *Form of plaint.*
7. *Verification of plaint. Punishment for false averment in plaint.*
8. *Presentation of plaint.*
9. *Procedure before hearing of suit.*
10. *Procedure on hearing.*
11. *Examination, &c., of witnesses.*
12. *Decisions.*
13. *No appeal.*
14. *Execution of decrees.*
15. *Records of cases where to be deposited.*
16. *Validity of convictions of offences involving forfeiture of property, not to be questioned by any Court.*
17. *Validity of conviction not to be questioned because the record does not show in what capacity the convicting officer acted.*
18. *Property attached without adjudication of forfeiture. Validity of such attachment not to be questioned, unless offender surrender within one year and be acquitted, &c. Proviso.*
19. *Release of property attached as forfeited.*
20. *Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property. Proviso.*

An Act to provide for the adjudication of claims to property seized as forfeited.

WHEREAS it is expedient to make provision for the adjudication of claims to property seized as forfeited, with a view to the speedy determination of the same; and whereas it is also expedient to remove doubts concerning the powers of officers or other persons to whom Commissions may have been issued for the trial of heinous offences in certain districts, and concerning the validity of convictions and adjudications of forfeiture made by such officers or other persons; It is enacted as follows:—

Court of Special Commission to be established.

I. It shall be lawful for the Executive Governments of the Lower and North Western Provinces of the Presidency of Bengal, to establish within any part of the territories subject to their respective Governments, Courts of Special Commission for the trial and determination of claims to property seized as forfeited, and to assign, from time to time, such local jurisdiction to the Courts so established as may appear proper. Provided, that no additional expense shall be incurred by the establishment of any such Court without the previous sanction of the Governor General of India in Council.

Proviso.

Court to consist of three Commissioners.

II. Every Court established under this Act shall consist of not less than three Commissioners, who shall sit together for the trial and determination of claims; but any one or more of them shall have power to make all such orders as may be necessary for preparing the cases that may be instituted for trial and decision.

Notification of establishment of Court in any District.

III. Whenever any Court shall be established under the provisions of this Act with jurisdiction in any district or districts, notice thereof shall be given by a written proclamation, of which copies shall be affixed in the several Courts and in the offices of the several Collectors and Magistrates of such district or districts; and the powers, heretofore vested in the Courts of such district or districts in respect of all cases cognizable by the Courts established under this Act, shall be suspended until such Courts shall be informed, by an order under the signature of the Secretary to Government, that the local jurisdiction of such Court of Special Commission has ceased, of which notice shall be given by proclamation in the manner aforesaid.

Transfer of pending suits.

IV. Any case pending before any Court sitting as a Court of original jurisdiction at the time of the passing of this Act, in respect of a matter made cognizable by Courts established under its provisions, shall be transferred to the Court of Special Commission within the limits of whose jurisdiction the property in dispute is situate, and such Court shall summon the defendant and proceed to dispose of the case in the same manner as if it had been instituted before it.

Court where to be held.

V. The Courts established under this Act shall be held at such place within the limits of their respective jurisdiction, as shall from time to time be appointed by the local Government.

Form of plaint.

VI. The plaint in suits instituted under this Act shall be written on the stamp paper prescribed for petitions of plaint in regular suits, and shall contain the following particulars, namely—

The name, description, and place of abode of the plaintiff, the relief sought for, the subject of the claim, and the cause of action; and if the suit be brought against a defendant other than the Government or some officer on the part of the Government, the name, description, and place of abode of such defendant.

Verification of plaint. Punishment for false averment in plaint.

VII. The plaint shall be verified in the manner prescribed for the verification of plaints in Section XXVII, Act VIII of 1859, *(for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter)*; and if the plaint contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

Presentation of plaint.

VIII. The plaint may be presented by the plaintiff in person or by his duly constituted representative, either in the principal Civil Court of original jurisdiction in the district in which the property or any part of the property in dispute is situate, or in the Court of Special Commission having jurisdiction over the claim under this Act. If the plaint be not presented in the Court of Special Commission, it shall be forwarded to such Court without delay.

Procedure before hearing of suit.

IX. The Court shall fix a day for the appearance of the parties and for the hearing of the suit, of which due notice shall be given to the parties or their representatives, and on the day so fixed the parties shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If eitheir party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit, and the Court shall issue a subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the plaintiff on the day fixed for the hearing of the suit or at any subsequent stage.

Procedure on hearing.

X. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the plaintiff, or his representative when his personal attendance is not required, and the witnesses of the parties, and upon such examination and after inspecting the documents of the parties and making any further enquiry that may appear necessary, shall proceed to pass such order in the case in respect both to the claim and to the costs of suit as it may consider just and proper.

Examination, etc., of witnesses.

XI. It shall not be necessary to take down the depositions of the witnesses in writing at length; but the Court, as the examination of each witness proceeds, shall reduce into writing the substance of what such witness deposes, and the deposition so taken shall form part of the record. In all other respects the provisions of the Rugulations and Acts for procuring the attendance of witnesses and for the examination, remuneration, and punishment of witnesses in suits before the Civil Court, shall be of equal force and effect in cases tried under this Act.

Decisions.

XII. The rules contained in Act XII of 1843 *(concerning the time at which and the language in which the decisions of the Judges in the Courts of the East India Company are to be written)* shall be applicable to decisions passed under this Act.

No appeal.

XIII. No appeal shall lie from any decision passed under this Act, nor shall any such decision be open to revision.

Execution of Decrees.

XIV. The decrees of the Courts of Special Commission established under this Act shall be enforced by the Civil Court of the district in which the property in dispute is situate, under the rules applicable to the execution of decrees passed by those Courts.

Records of cases where to be deposited.

XV. The records of cases disposed of by Courts established under this Act shall be disposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in dispute is situate.

Convictions of offences involving forfeiture of property not to be questioned by any Court.

XVI. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power, in any suit or proceeding relating to such property, to question the validity of the conviction.

Conviction not to be questioned because the record does not show in what capacity the convicting Officer acted.

XVII. Whenever any person shall have been convicted as above by an Officer having power to try and convict, the validity of any such conviction shall not be questioned upon the ground that the record of the conviction does not show in what capacity such Officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict.

XVIII. Whenever any property shall have been attached or seized, without either conviction or an adjudication of forfeiture by any Officer of Government as property forfeited or liable to be forfeited to Government, for an offence, for which, upon conviction, the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question by any Court or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property, have surrendered himself for trial, and upon trial before a competent Court shall have been or shall be acquitted of the offence, and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice. Nothing in this Section shall extend to persons entitled to pardon under Her Majesty's proclamation published in the Calcutta Gazette Extraordinary, dated the 1st of November 1858, or to any person, who, having surrendered himself within the period of one year after the seisure of his property, shall be discharged by order of Government without a prosecution.

Attachment of property without adjudication of forfeiture, not to be questioned, unless offender surrender within one year and be acquitted, &c. Proviso.

XIX. No Judge or other person acting as Commissioner under the provisions of Act XIV of 1857 (*to make further provision for the trial and punishment of certain offences relating to the Army, and of offences against the State*) and Act XVI of 1857 (*to make temporary provision for the trial and punishment of heinous offences in certain Districts*) has power to release property attached or seized as forfeited or as liable to be forfeited to Government except under the provisions of Section VIII. Act XXV of 1857 (*to render Officers and Soldiers in the Native Army liable to forfeiture of property for mutiny, and to provide for the adjudication and recovery of forfeitures of property in certain cases*) when the offender or alleged offender shall have surrendered himself for trial, and shall be tried and acquitted by such Judge or Commissioner, and shall prove that he did not escape or keep out of the way for the purpose of evading justice; and any order passed by any such Judge or Commissioner for the release of any property attached or seized as forfeited or liable to be forfeited to Government, except upon the acquittal before him of the person accused, and upon proof that he did not escape or keep out of the way for the purpose of evading justice, is hereby declared null and void.

Release of property attached as forfeited.

XX. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which upon conviction the property of the offender is forfeited, in respect of any property attached or seized as forfeited or liable to be forfeited to Government: Provided that no suit brought by any party in respect of such property shall be entertained, unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relatest.

Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property. Proviso.

ACT No. X. OF 1859.*

(*Received the assent of the Governor General on the 29th April 1859.*)

RECOVERY OF RENTS (BENGAL) ACT.

ARRANGEMENT OF SECTIONS.

1. *Laws repealed and modified.*
2. *Ryot entitled to a pottah.*
3. *Ryots holding land at fixed rates to receive pottahs.*
4. *If rent of land be not charged for 20 years.*
5. *Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.*
6. *Right of occupancy of ryot cultivating or holding land for 12 years.*
7. *Saving of terms of written contracts.*
8. *Pottahs to which ryots not having rights of occupancy are entitled.*
9. *Person granting pottah entitled to a counterpart engagement.*

* Made inoperative in the districts to which Act VIII. 1869 B. C. is in force, by Act VIII. 1869, which *see*.

10. Exactions in excess of rent or receipt withheld. Form of receipt.
11. Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose. Payment of rent to be enforced only under this Act.
12. Damages for extorting payment of rent by duress.
13. Enhancement of rent of ryot holding without written engagement, or after expiry, &c., thereof.
14. Mode of contesting enhancement of rent.
15. Dependant talookdar, &c., holding land at fixed rent without change since permanent settlement, not liable to enhancement of rent.
16. Rent not changed for 20 years, to be primâ facie evidence of occupancy at that rent since permanent settlement.
17. Grounds on which ryot having right of occupancy is liable to enhanced rent. That the rate paid by him is below that prevailing in adjacent places. That the value of the land, &c., has increased independently of the ryot. That the quantity of land held by the ryot is greater than he has paid rent for.
18. When ryot may claim abatement of rent.
19. Relinquishment of land by ryot after notice given.
20. What to be deemed an arrear of rent under this Act.
21. Liability of ryot to be ejected for arrear due. Proviso.
22. Liability of farmer to have lease cancelled for arrear due. Proviso.
23. Cognizance of suits under this Act.
24. Suits by Zemindars against their agents for money or accounts.
25. Ejectment of cultivators, farmers, &c., by Zemindars. Proviso.
26. Measurement of lands.
27. Registry of transfers of talooks, &c. Proviso.
28. Applications to dispossess grantees of land exempt from revenue.
29. Suits by or against Surburakars or Tuhseeldars of khas estates.
30. Time for commencement of suits generally.
31. Time for commencement of suits for grant of pottahs, &c.
32. Time for commencement of suits for arrears of rent. Proviso.
33. Time for commencement of suits against agents for money, &c.
34. Mode of instituting suits. Form of plaint or statement of claim.
35. Statement by whom to be presented.
36. Verification of statement. Punishment for false verification.
37. Statement of claim to be written on stamped paper. No stamp duty to be required for filing documents, &c.
38. Documentary evidence to be produced by plaintiff.
39. If plaintiff require production of document from defendant.
40. Form of plaint in suits for arrears of rent.
41. Form of plaint in suits for ejectment of ryot, &c., or for recovery o occupancy or possession of land, &c.
42. Statement may be returned or allowed to be amended.
43. Issue of summons; personal attendance may be required.
44. The day to be specified in the summons how to be fixed. Defendant to be orderd to produce necessary documents, and to bring witnesses willing to attend without process.
45. Summons how to be served.
46. Endorsement by Nazir as to whether summons has been personally served or not.
47. Execution of process in another District.
48. Cost of serving summons or warrant to be deposited in Court.
49. Warrant of arrest in what cases to be issued.
50. Procedure after arrest of defendant.
51. Procedure when defendant is brought before the Collector under warrant. Form of security bond.
52. Procedure of warrant of arrest cannot be served upon the defendant.
53. Compensation for arrest applied for without reasonable cause.
54. Consequence of neither party appearing on the day of trial.
55. If defendant only appear to dispute the demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon such admission. Proviso.
56. If plaintiff only appear, Collector may proceed exparte.
57. If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.
58. Revival, reversal, and alteration of decrees exparte or by default.
59. On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.
60. Examination of party, &c.
61. Witnesses to be examined.

62. Documentary evidence to be produced by defendant.
63. After examination, Collector may make his decree, if no further evidence is required.
64. Consequence of inability of agent to answer.
65. If necessary. Collector to record issue, and to fix a day for hearing further evidence.
66. Parties shall produce their witnesses on the day of trial; or Collector, on application of either party, shall issue summons for the attendance of a witness.
67. Rules regarding attendance, examinations, &c., of witnesses.
68. Consequence of parties not appearing on the day fixed for the trial of any issue.
69. Suits instituted or defended by Naibs, Gomashtahs, &c.
70. Personal attendance of plaintiff or defendant not required in certain cases.
71. Employment of authorized agents or mookhtars.
72. Collector may grant time or adjourn hearing.
73. Collector may cause local enquiry to be made.
74. Defendant may pay money into Court in satisfaction of the demand. If plaintiff elect to proceed, and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.
75. No interest on deposits.
76. If on trial of suit for delivery of pottah, parties do not agree as to the time for which the pottah is granted, Collector to fix the time. Proviso.
77. If in actions for rent a third person appear as claimant, he is to be made a party to the suit. Proviso.
78. Suits for ejectment or cancelment of lease.
79. Judgment how to be pronounced.
80. If person required by the decree refuse to grant pottah, Collector may do so.
81. Refusal of person to execute kubooliyat as required by the decree.
82. Mode of executing decree for ejectment or re-instatement of ryot. Punishment for obstructing execution.
83. Mode of executing decree for cancelment of a lease, or for ejectment or re-instatement of a farmer or tenant.
84. In what case a judgment-debtor may be detained or imprisoned without issue of process of execution.
85. Liability of surety on failure to deliver judgment-debtor into custody.
86. Issue of process of execution.
87. Application for execution against moveable property.
88. How long warrant shall continue in force.
89. Second and successive warrants.
90. After one year, execution not to issue without notice.
91. Execution not to issue against heir or representative of a deceased party without notice.
92. No process of execution to be issued three years after date of judgment.
93. Warrant against the person. Limit of imprisonment. If arrest be for non-delivery of accounts.
94. No person to be imprisoned a second time under same judgment.
95. Diet-money to be deposited at the time of issue of warrant.
96. Payment of diet-money in advance during imprisonment.
97. Diet-money to be costs in suit.
98. List of property to be prepared, and proclamation of sale to be published &c.
99. Custody and sale of moveable property taken in execution.
100. Collector may stay sale of moveable property seized, if a third party claim any interest therein.
101. Collector to adjudicate such claims.
102. Claimant failing to establish his right, liable to pay compensation to judgment-creditor.
103. No appeal from order of Collector under the two last preceding Sections. Proviso.
104. Sale not vitiated by irregularity in publishing or conducting the same. Proviso.
105. Sale of transferable tenures in execution of decrees for arrears of rent.
106. If third party claim to be the lawful possessor of such under tenure, Collector to stay the sale and to enquire into and adjudicate upon the claim. Proviso.
107. Mode of adjudicating such claims.
108. Execution of decrees given in favor of sharers in undivided estates or tenures.

109. In all cases of decrees for money, if judgment cannot be satisfied by sale of debtor's moveable property, execution may be had against his immoveable property.

110. Mode of executing process, if immoveable property be a house or other building. If it be a saleable under tenure. If it be an estate or a share of an estate.

111. Consequence of objection being offered before the sale of any immoveable property.

112. Produce of the land to be held hypothecated for the rent. Arrears of rent may be recovered by distraint under the following rules. Cultivators who have given security to be exempt from distraint. Three Provisoes.

113. No distraint in certain cases.

114. Power of distraint to be exercised by managers under the Court of Wards, &c. Proviso.

115. Standing crops, and crops gathered but not stored, liable to distraint.

116. Defaulter to be served with a written demand &c., before or at the time of distraint.

117. Distress to be proportionate to the arrear, if not paid or tendered. List of property to be distrained, to be served on owner.

118. Standing crops &c., when attached, to be reaped and stored by the cultivator, or, if he neglect to do so, by the distrainer.

119. Distrainer may apply for aid to the Collector upon occasion of resistance made or apprehended.

120. Persons empowered to distrain may give written authority to their servants to do so.

121. Distress to be withdrawn, if defaulter tender payment of arrear and expenses of attachment prior to the day of sale.

122. Application for sale.

123. Form of application. Cost of notice upon defaulter to be deposited by distrainer.

124. Procedure by Civil Court Ameen, &c., on receipt of application.

125. Ameen to suspend sale on receipt of Collector's certificate of the institution of a suit.

126. Suit to contest distrainer's demand before issue of notice of sale.

127. Distress to be withdrawn, on receipt of Collector's certificate that the owner has executed a bond with security to pay amount of decree with interest and costs.

128. On expiration of period fixed in the proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.

129. Place and manner of sale of distrained property.

130. If fair price be not offered, sale may be postponed to another day, and shall be then completed at whatever price may be offered.

131. Payment of purchase money.

132. Proceeds of sale.

133. Officers holding sales prohibited from purchasing.

134. All irregularities to be reported to the Collector. Officer not to proceed to sale, if he find that defaulter has not received due notice.

135. Recovery of expenses, if Ameen proceeds to place of sale and no sale take place.

136. Proceedings of Civil Court Ameens, &c., subject to revision and orders of Collectors.

137. Second proclamation of sale.

138. Procedure after institution of suit to contest distrainer's demand.

139. Any person, whose property has been distrained for arrears of rent alleged to be due from another, may institute a suit against the distrainer, &c. Proviso.

140. Procedure if distrainer's right to distrain be disputed.

141. Persons, prevented form suing in time to save their property from sale, may sue for damages.

142. Also persons aggrieved by any illegal act of distrainer.

143. Unlawful distraint.

144. Time for commencing suits for damages.

145. Resistence of distraint.

146. Service of process.

147. Resistance of process.

148. Collector competent to hold a Court in any part of his jurisdicton. Proviso.

149. Agents or mooktars.

150. *Powers of Deputy Collectors.*
151. *Collectors and Deputy Collectors to be subject to direction and control of the Commissioners and the Boards of Revenue. No appeal from orders of Collectors and Deputy Collectors in certain cases.*
152. *Time for presenting appeals from orders.*
153. *No appeal from any decree of Collector for money below 100 Rupees, unless the decision involve some question of right to enhance rents, or some question relating to a title to land.*
154. *In suits not open to appeal, Collector may grant a re-hearing upon the discovery of new evidence, &c.*
155, *Appeal from decision of Deputy Collector.*
156. *Petition of appeal to be on stamp paper, &c.*
157. *Procedure in appeal.*
158. *Re-admission of appeal.*
159. *Judgment in appeal.*
160. *In what suits appeal to lie to Zillah Judge, or to Sudder Court.*
161. *Rules regarding presentation and hearing of appeals.*
162. *Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the lands is situate.*
163. *Except as above, Collector not to exercise jurdisiction in respect to lands situate beyond his District.*
164. *Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.*
165. *What powers to be exercised by Assistants to Collectors.*
166. *Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation VIII. 1819.*
167. *Commencement of Act.*
168. *"Civil Jail." "Nazir." Number. Gender.*

An Act to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.

WHEAREAS it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of ryots with respect to the delivery of pottahs and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected witht he same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows :—

Laws repealed and modified.

I. The following Regulations and Acts and portions of Regulations and Acts are hereby repealed, except in so far as they repeal any other Regulation or Act, and except as to proceedings commenced before the date of this Act coming into force, namely,

Regulation XVII, 1793 (*to empower landholders to distrain and sell the personal property of ryots, &c.*),

So much of Regulation IV, 1794 (*to determine disputes regarding the grant of pottahs to ryots, &c.*) as is still in force,

Regulations XXXV. 1795 (*for better enabling individuals to recover arrears of rent or revenue due to them*),

Regulation XLV, 1795 (*to empower landholders in the Province of Benares to distrain, &c.*),

Sections IX. and X, Regulation LI, 1795 (*respecting ryotty pottahs in the Province of Benares*),

Sections I to XX Regulation VII, 1799 (*to enable landholders to realize their rents with greater punctuality, &c.*),

Sections I to XX Regulation V, 1800 (*to enable landholders in the Province of Benares to realize their rents with greater punctuality, &c.*),

Regulation XXVIII, 1803 (*to empower landholders in the Ceded Provinces to distrain, &c.*),

Sections IX and X Regulation XXX. 1803 (*prescribing rules for the grant in the Ceded Provinces of pottahs to ryots, &c.*),

Section IV Regulation II. 1805 (*to provide a limitation of time for certain suits, &c.*),

Section XIX Regulation VIII. 1805 (*for extending certain Regulations to the Ceded and Conquered Provinces, &c.*),

Sections V to XXIII Regulation V. 1812 (*for amending some of the rules at present in force for the collection of the Land Revenue*),

Sections XV and XVI Regulation XIX. 1817 (*for amending certain Regulations in force relative to process for recovery of arrears of rent, &c.*),

Section XXVII Regulation XX. 1817 (*relating to resistance to distraint for arrears of rent, &c.*),

Sections XVIII and XIX Regulation VIII. 1819 (*relating to Putnee Talooks and the system established for the collection of rents generally, &c.*),

Section IV Regulation II. 1821 (*relating to the duties of City and Zillah Judges, &c.*),

Section XXII, and so much of Section XX and the following Sections of Regulation VII. 1822 (*relating to the settlement of the Land Revenue in the Ceded Provinces and Cuttack, &c.*) as apply to suits for rent, to complaints of excessive demand or undue exaction of rent or of the non-delivery of Pottahs or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land.

Regulation XIV. 1824 (*for modifying the rules in force for referring to the Collectors summary suits in cases of arrear or exaction of rent*).

Regulation VIII. 1831 (*for amending the existing provisions relative to the trial of summary suits and claims for arrears or exactions of rent*),

Act I. of 1839 (*relating to the appointment of persons to sell property distrained for the recovery of arrears of rent*),

Act X. of 1846 (*for regulating the proceedings in certain cases of distraint for arrears of rent*)—and

Act VIII. of 1848 (*to modify the provisions of Sections IX, X, XI, and XIII of Regulation* V. 1812 *of the Bengal Code*).

Sections XIV and XV Regulation IX. 1833 (*for the more speedy decision of certain suits, and for enforcing the production of village accounts, &c.*), so far as the same are applicable to the territories under the Government of the Lieutenant-Governor of Bengal, are also repealed.

Such parts of Regulation VIII. 1793 (*prescribing rules for the decennial settlement of the public Revenue in Bengal, Behar, and Orissa, &c.*), and Regulation XXX. 1803, as relate to the adjudication of penalties for the refusal of pottahs and receipts for rent, and for the exaction of any sums as abwab or in excess of the amount specified in any engagements for the payment of rent, and such parts of Section XXVI Act I. of 1845 (*to amend Act No. XII. of* 1841, *entitled "an Act for amending the Bengal Code in regard to sales of land for arrears of Revenue"*), as relate to the enhancement of rents and the ejectment of tenants by the purchaser of an estate sold for arrears of Government Revenue, are declared subject to the following modifications.

Ryot entitled to a pottah.

II. Every ryot is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars :—

The quantity of land; and where fields have been numbered in a Government survey, the number of each field.

The amount of annual rent.

The instalments in which the same is to be paid.

And any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered, and the time and manner of delivery.

Ryots holding land at fixed rates to receive pottahs.

III. Ryots who, in the Provinces of Bengal, Behar, Orissa, and Benares, hold lands at fixed rates of rent which have not been changed from the time of the permanent settlement, are entitled to receive pottahs at those rates.

Presumption, if rent of land be not charged for 20 years.

IV. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a ryot in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.

V. Ryots having rights of occupancy, but not holding at fixed rates as described in the two preceding Sections, are entitled to receive pottahs at fair and equitable rates. In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Right of occupancy of ryot cultivating or holding land for 12 years.

VI. Every ryot, who has cultivated or held land for a period of twelve years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khomar, neejjote, or seer land, belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sublet for a term or year by year by a ryot having a right of occupancy. The holding of the

father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this Section.

VII. Nothing contained in the last preceding Section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot, when it contains any express stipulation contrary thereto.

Saving of terms of written contracts.

VIII. Ryots not having rights of occupancy are entitled to pottahs, only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Pottahs to which ryots not having rights of occupancy are entitled.

IX. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah. The tender to any ryot of a pottah, such as the ryot is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

Person granting pottah entitled to a counterpart engagement.

X. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under the provisions of this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent shall be entitled to recover from the person receiving such rent, damages not exceeding double the amount so exacted or paid. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Damages for exactions in excess of rent or for receipt withheld. Form of receipt.

XI. The power heretofore vested in Zemindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rent due to them other than are authorized by the provisions of this Act.

Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose.

XII. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding in any case the sum of two hundred Rupees, as may be deemed a reasonable compensation for the injury done him by such extortion. An award of compensation under this Section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Damages for extorting payment of rent by duress.

XIII. No under-tenant or ryot, who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall not be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or ryot, in or before the month of Cheit, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. Such notice shall be served by order of the Collector on the application (which may be on plain paper) of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or ryot. If for any reason the notice cannot be served personally upon the under-tenant or ryot, it shall be affixed at his usual place of residence, or if he have no such place of residence in the District in which the land is situate, the mode of service of such notice shall be by affixing it at the Mal Cutcherry of such land or other conspicuous place thereon, or at the village Chowree or Chowpal, or at some other conspicuous place in the village in which the land is situate.*

Enhancement of rent of ryot holding without or after expiry, etc., of written engagement.

XIV. Any under-tenant or ryot, on whom such notice as aforesaid has been served, may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Mode of contesting enhancement of rent.

XV. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who, in the Provinces of Bengal, Behar, Orissa, and Benares, holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in Section LI Regulation VIII 1793, or in any other law, to the contrary notwithstanding.

Dependent talookdar, &c., holding at fixed rent since permanent settlement not liable to enhancement.

XVI. Whenever, in any suit under this Act, it shall be proved that the rent at which a talook or other tenure is held in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be

Presumption from rent of talookdar, &c., not having been changed for twenty years.

* See Act XIV. of 1863.

presumed that such talook or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Grounds on which ryot having right of occupancy is liable to enhanced rent.

XVII. No ryot having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely :—

That the rate of rent paid by such ryot is below the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent.

That the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the ryot.

That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

When ryot may claim abatement of rent.

XVIII. Every ryot having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the ryot, or if the quantity of land held by the ryot has been proved by measurement to be less than the quantity for which rent has been previously paid by him.*

Relinquishment of land by ryot after notice given.

XIX. Any ryot, who desires to relinquish the land held or cultivated by him, shall be at liberty to do so, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Cheit of the year preceding that in which the relinquishment is to have effect. If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land. If the person entitled to the rent of the land or his agent refuse to receive any such notice and to sign a receipt for the same, the ryot may make an application on plain paper to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in Section XIII.

What to be deemed an arrear of rent under this Act.

XX. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of ryot to be ejected for arrear due.

Proviso.

XXI. When an arrear of rent remains due from any ryot at the end of the Bengal year, or at the end of the month of Jeth of the Fusly or Willayuttee year, as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due. Provided that no ryot, having a right of occupancy or holding under a pottah the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of former to have his lease cancelled for arrear adjudged due.

Proviso.

XXII. When an arrear of rent shall be adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected. Provided that no such lease shall be cancelled nor the lease-holder ejected, otherwise than in execution of a decree or order under the provisions of this Act.*

Cognizance of suits under this Act.

XXIII.—1.—All suits for the delivery of pottahs or kubooliyets, or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered;

2. All suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

3. All complaints of excessive demand of rent, and all claims to abatement of rent;

4. All suits for arrears of rent due on account of land either kherajee or lakheraj, or on account of any rights of pasturage, forest-rights, fisheries, or the like;

5. All suits to eject any ryot or to cancel any lease on account of the non-payment of arrears of rent, or on accont of a breach of the conditions of any contract by with a ryot may be liable to ejectment or a lease may be liable to be cancelled;

6. All suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same;

7. All suits arising out of the exercise of the power of distraint conferred on Zemindars and others by Sections CXII and CXIV of this Act, or out of any acts

* See Act XIV. 1863.

done under color of the exercise of the said power as hereinafter particularly provided ;

Shall be cognizable by the Collectors of land revenue, and shall be instituted and tried under the provisions of this Act; and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner. *

Suits by Zemindars against their agents for money or accounts.

XXIV. Suits by Zemindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act. *

Ejectment of cultivators, farmers, &c., by Zemindars.

XXV. If any Zemindar or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act. Provided, that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated ticca zur-i-peshgee or the like, in which an advance has been made by the lease-holder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the Civil Court.

Proviso.

Measurement of lands.

XXVI.† When rent is payable by an under-tenant or ryot at a certain rate or rates according to the quantity of land held or cultivated by him ; or when any written engagement conditioned for the payment of a certain amount of rent on account of land held or cultivated by an under-tenant or ryot has expired, or become cancelled by the sale for arrears of revenue or rent of the estate or tenure in which the land is situate, the person to whom the rent is payable has a right to measure such land for the purpose of ascertaining the quantity of land actually held or cultivated by such under-tenant or ryot : and every proprietor of an estate or tenure has a right of making a general survey or measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands. If any person, intending to measure any land which he has a right to measure, is opposed in making such measurement by the occupant of the land, or if any under-tenant or ryot, having recieved notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot. If any under-tenant or ryot after the issue of an order enjoining his attendance neglects to attend it shall not be competent to him to contest the correctness of the measurement made in his absence.

Registry of transfers of talooks, &c.

XXVII. All dependant talookdars, and other persons possessing a permanent transferable interest in land intermediate between the Zemindar and the cultivator, are required to register, in the Sherishtch of the Zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. And every Zemindar or superior tenant is required to admit to registery and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions. If any Zemindar or superior tenant refuse to admit to registery or otherwise give effect to any such transfer or succession, the transferree or successor may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the Zemindar or superior tenant to admit to registery and otherwise give effect to such transfer or succession. Provided, that no Zemindar or superior tenant shall be required to admit to registery or give effect to any division or distribution of

Proviso.

* See Act XIV. 1863.

† Repealed, as regards the Lower Provinces, by Act No. VI, 1862, of Lieutenant Governor of Bengal in Council.

the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the Zemindar or superior tenant.

Applications to dispossess grantees of land exempt from revenue.

XXVIII. So much of Section X Regulation XIX. 1793, Section X Regulation XLI. 1795, Section VI Regulation XXXI. 1803, Section XXI Regulation VIII. 1805, and Section XXIV Regulation XII. 1805, as authorizes and requires proprietors and farmers of states and dependent talooks, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said Sections, of their own authority to collect the rents of such land, and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or talook in which it may be situate, is repealed; and any proprietor or farmer, who may desire to assess any such land or to dispossess any such grantee, shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act. Every such suit shall be instituted within the period of twelve years from the time, when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued. If such period has already elapsed, or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date

Suits by or against Surburakars or Tusheeldars of estates held khas.

XXIX. All suits, which under the provisions of this Act may be brought by or against Zemindars or other persons in the receipt of the rent of land, may be brought by or against Surburakars or Tuhseeldars of the estates held under khas management, whether such estates are the property of Government or of individuals. If the Collector or the Surburakar or Tuhseeldar of any such estates in the provinces of Bengal, Behar, and Orissa proceed against any defaulting ryot or under-tenant of such estate under the powers vested in him by Section XXV Regulation VII. 1799, and not according to the provisions of this Act, such ryot or under-tenant may contest the demand on account of which he is so proceeded against by suit in the Civil Court.

Time for commencement of suits generally.

XXX.* Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

Time for commencement of suits for grant of pottahs, &c.

XXXI. Suits for the delivery of pottahs or kubooliyets and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

Time for the commencement of suits for arrears of rent.

XXXII. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Fusly or Willayuttee year in which the arrear claimed shall have become due. For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

Proviso.

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under Section XIII, and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year or of the month of Jeth of the Fusly or Willayuttee year, on account of which such enhanced rent is claimed.

Time for the commencement of suits against agents for money, papers, or accounts.

XXXIII. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent, or in the case of claims now existing within one year after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court whichever may first expire.

Proviso.

Provided, that, if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Mode of instituting suits. Form of plaint or statement of claim.

XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance of the claim, and the date of the cause of action.†

Statement by whom to be presented.

XXXV. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plantiff, who has personal knowledge of the facts of

* See Act LIII. 1860.

† As regards N. W. P. See Act XIV. 1863.

the case, or by an agent who shall be accompanied by a person who has such knowledge.

XXXVI. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following or to the like effect :

Verification of statement. Punishment for false verification.

I, A. B, do declare that the above statement is true to the best of my knowledge and belief.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

XXXVII. Repealed by Act XXXVI, 1860, Sec. 1.

XXXVIII. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim. Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Colletor see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by plaintiff.

XXXIX. If the plaintiff require the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Collector a description of the document, in order that the defendant may be required to produce the same.

If plaintiff require production of document from defendant.

XL. If the suit be for the recovery of an arrear of rent, the statement shall specify the name of the village and estate, and of the Pergunnah or other local division in which the land is situate; and if the arrear is alleged to be due from any ryot, the quantity of land, and where fields have been numbered in a Government Survey, the number of each field, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

Form of plaint in suits for arrears of rent.

XLI. If the suit be for the ejectment of a ryot, farmer, or tenant, from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure, the statement shall describe (as circumstances may require) the extent, situation, and designation of the same; and, if necessary for the identification of the land, shall set forth the boundaries of such land.

Form of plaint in suits for ejectment of ryot, &c., or for recovery of occupancy or possession of land, &c.

XLII. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Statement may be returned or allowed to be amended.

XLIII. If the statement of claim be in proper form, the Collector except as otherwise hereinafter especially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Issue of summons ; personal attendance of defendant may be required.

XLIV. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be, or be supposed to be, at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence. It shall also enjoin him to bring with him his witnesses, if they are willing to attend without issue of process; and shall be in the form (A) contained in the Schedule to this Act or to the like effect.

The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents, and to bring witnesses willing to attend without process.

XLV. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable; or if the summons cannot be served on the defendant Personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's Office.

Summons how to be served.

XLVI. If the summons be served personally, the Nazir shall endorse on the summons the fact of such service. If personal service be not effected, the Nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Endorsement by Nazir if summons has been personally served or not.

XLVII. If the usual place of abode of the defendant be in another District, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such District, who shall issue the summons and return the same, after service, with the prescribed endorsement, to the Officer by whom it was transmitted to him.

Execution of process in another District.

Cost of serving summons or warrant to be deposited in Court.

XLVIII. The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next succeeding Section, of serving the warrant, shall in all cases be deposited in Court upon the same day, or the day next following that on which the plaint or statement of claim is presented to the Collector. If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in Section CXLVI), the case shall not be brought on the file of suits: but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Warrant of arrest in what cases to be issued.

XLIX. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant. When such application is presented, the Collector shall examine the plaintiff or his agent, on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant. The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form (B) contained in the Schedule to this Act or to the like effect, and the Officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the Schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence. But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent talook or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after arrest of defendant.

L. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Collector and the Collector shall commit him to custody, unless he deposit in Court such sum as may be specified in the notice.

Procedure when defendant is brought before the Collector under warrant. Form of security bond.

LI. When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the Civil jail to be there detained until he shall furnish such security or dsposit such sum as the Collector shall order. The security bond shall be in the form (D) contained in the Schedule to this Act or to the like effect.

Procedure if warrant of arrest cannot be served upon the defendant.

LII. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own Office and at the residence of the defendant, fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant. If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding Section.

Compensation for arrest applied for without reasonable cause.

LIII. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum, not exceeding one hundred Rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest or of his detention in jail during the pendency of the suit.

Consequence of neither party appearing on the day of trial.

LIV. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned, prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off, with liberty to the paintiff to bring a fresh suit, unless precluded by the rules for the limitation of actions.

If defendant only appear to dispute the

LV. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default, unless the defendant admit the cause of

action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs, provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon such admission. Proviso.

LVI. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If plaintiff only appear, Collector may proceed exparte.

LVII. If the defendant shall appear or any subsequent day to which the hearing of the suit may be postponed under the last preceding Section, the Collector may upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit, as if he had appeared on the day fixed for his attendance.

If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.

LVIII. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all such cases, if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shall show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case. But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

Revival, reversal, and alteration of exparte or by default.

LIX. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjorned, for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other. If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally. At the time of examination the defendant, if he think fit, may file a written statement of his defence.

On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.

LX. The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation, or otherwise according to the law or the time being in force relative to the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Collector, and filed with the record.

Examination of parties, &c.

LXI. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Witnesses to be examined.

LXII. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by defendant.

LXIII. If after the examination required by Section LIX and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

After examination, Collector may make his decree.

LXIV. If, on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case, which the Collector is of opinion that the party whom he represents ought to answer and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default, or make such other order as he may deem proper in the circumstances of the case.

Consequence of inability of agent to answer.

LXV. If, on such examination as aforesaid, it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place

If necessary, Collector to record issue and to fix a day for hearing further evidence.

on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties shall produce their witnesses on the day of trial; or Collector on application shall summon witnesses.

LXVI. The parties shall bring forward their witnesses on the day of trial, and, if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector, in sufficient time before the day fixed for the trial to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend.

Rules regarding attendance, examination, &c., of witnesses.

LXVII. The provisions of the Regulations and Acts, and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the Civil Court of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

Consequence of parties not appearing on the day fixed.

LXVIII. If, on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in Section LIV. If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Suits instituted or defended by Naibs, Gomastahs, &c.,

LXIX. When suits under this Act are instituted or defended by Naibs, Gomastahs or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such Naibs, Gomastahs, or other persons; and anything, which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid. Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Personal attendance of females of rank not required.

LXX. A plaintiff or defendant shall not be required to attend in person, if of the female sex and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

Employment of authorized agents or mookhtars.

LXXI. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court; *and no fee for any agent shall be charged as part of the costs of suit in any case under this Act.**

Collector may grant time or adjourn hearing.

LXXII. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may cause local enquiry to be made.

LXXIII. The Collector may, at any stage of a case, cause a local enquiry and report respecting the matter in dispute to be made by any Officer subordinate to him, or by any other Officer of Government with the consent of the authority to whom such Officer is subordinate, or may himself proceed to the spot and make such local enquiry in person. The provisions of the law for the time being in force, relative to local enquiries by Ameens or Commissioners under orders of the Civil Courts, shall apply to any local enquiry made by any Officer under this Section, and, so far as they are applicable, to enquiries made by the Collector in person. In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Defendant may pay money into Court in satisfaction of the demand.

LXXIV. The defendant in any action under this Act may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff. If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than shall have been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

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* Modified by Act XX. 1865, of the Governor-General's Council.

LXXV. No interest shall be allowed to a plaintiff on any sum paid by the defendant into any Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

No interest on deposits.

LXXVI. If, on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy, the parties do not agree as to the term for which the pottah is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper. Provided, that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest. For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

If parties do not agree as to the time for which the pottah is granted, Collector to fix it.

Provisoes.

LXXVII. When, in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always, that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court, if instituted within one year from the date of the decision.

If in actions for rent a third person appear as claimant, he is to be made a party to the suit.

Proviso.

LXXVIII. Any person desiring to eject a ryot or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of the rent, as evidence of the existance of such arrear, in a suit for such ejectment or cancelment. In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount, together with interest and costs of suit, be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

Suits for ejectment or cancelment of lease.

LXXIX. The Collector shall pronounce judgment in open Court. The judgment shall be written in the Vernacular language of the Collector and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced.

Judgment how to be pronounced.

LXXX. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuse or delay to grant the same, the Collector may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

If person required by the decree refuse to grant pottah, Collector may do so.

LXXXI. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kubooliyet executed by the said person.

Refusal to execute kubooliyet as required by the decree.

LXXXII. If the decree be for the ejectment of any ryot from land occupied by him, or for the re-instatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Execution of decree for ejectment or re-instatement of ryot.

LXXXIII. If the decree be for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

Execution of decree for cancelment, of a lease or for ejectment or re instatement of a farmer or tenant.

LXXXIV. If the decree be for arrears of rent or for money, papers, or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security bond given under Section LI, the Collector may order that he be detained in or committed to the Civil jail unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

In what case a judgment debtor may be imprisoned without issue of process of execution.

Liability of surety on failure to deliver judgment debtor into custody.

LXXXV. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety. If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Issue of process of execution.

* LXXXVI. Process of execution may be issued against either the person or the property of a judgment-debtor; but process shall not be issued simultaneously against both person and property. Process of execution against the person or moveable property of a debtor shall be in the form (E) or (F) contained in the Schedule to this Act, or to the like effect.

Execution against moveable property.

LXXXVII. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs. In either case the property to be seized shall be pointed out to the Officer entrusted with the execution of the process by the creditor or his agent.

How long warrant shall continue in force.

LXXXVIII. Every warrant of execution shall bear date on the day on which it is signed by the Collector, and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

LXXXIX. Second and successive warrants of execution may be issued by order of the Collector, on the application of the judgment-creditor after the expiration of the period fixed for the continuance in force of a previous warrant.

Execution when not to issue on a judgment without notice to the debtor.

XC. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

Execution not to issue against heir, etc., of debtor, without notice.

XCI. Execution on a judgment shall not issue against the heir or other representative of a deceased party, without notice to such heir or other representative to appear and be heard.

No execution to be issued after three years from date of judgment.

XCII. No process of execution of any description whatsoever shall be issued, on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred Rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

Warrant against the person. Limit of imprisonment. If arrest be for nondelivery of accounts.

XCIII. If a warrant issue for taking in execution the body of any person, the Officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector. If such person shall not then deposit in Court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the Civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree. Provided, that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty Rupees, or six calendar months when such amount does not exceed five hundred Rupees, or two years in any other case. If the decree against any person arrested under a warrant be for the delivery of papers or accounts, and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the Civil Jail, there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

Proviso.

No person to be imprisoned a second time under same judgment.

XCIV. Any person once discharged from jail shall not be imprisoned a second time under the same judgment. If the amount due under the decree do not exceed one hundred Rupees, the Collector may declare such discharged person absolved from further liability under that decree. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or ex-

* Repealed as regards N. W. P. by Act XIV. 1863.

empt any property belonging to such person from attachment in execution of the same.

XCV. Any person applying for a warrant of arrest under Section XLIX, or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Diet-money to be deposited at the time of issue of warrant.

XCVI. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

Payment of diet-money in advance during imprisonment.

XCVII. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

Diet-money to be costs in suit.

XCVIII. In executing a writ of execution against the moveable property of a debtor liable under this Act, the Officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor. A copy of the said proclamation and list shall be transmitted to the Collector, and shall be affixed in his Office.

List of property to be prepared, and proclamation of sale to be published, etc.

XCIX. No sale of any moveable property taken in execution shall be made, until after the end of ten days next following the day on which such property may have been so taken. Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the Officer executing the writ. The provisions of Sections CXXIX to CXXXIII, so far as the same are applicable, shall be applied to sales under this Section.

Custody and sale of moveable property taken in execution.

C. If, before the day fixed for the sale, a third party appear before the Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation, or otherwise according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property.

Collector may stay sale of moveable property seized, if a third party claim any interest therein.

CI. The Collector shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit. In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Collector to adjudicate such claims.

CII. If the claimant shall fail to establish his right to the property taken in execution, the Collector, at the time of disposing of the case, may award to the judgment-creditor against such claimant as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the Judgment-creditor may have sustained by reason of the postponement of the sale of the property.

Claimant failing to establish his right, liable to pay compensation to judgment creditor.

CIII. No appeal shall lie from any order passed by the Collector under the two last preceding Sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order; provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

No appeal from order of Collector under the two last preceding Sections.
Proviso.

CIV. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Courts; provided such action be brought within one year from the date of sale.

Sale not vitiated by irregularity in publishing or conducting it.

CV. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force. But no such application shall be received, when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force. If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in Section CX of this Act.

Sale of transferable tenures in execution of decrees for arrears of rent.

If third party claim to be the lawful possessor, Collector to stay the sale and adjudicate upon the claim.

CVI. If, before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure a third party appear before the Collector, and allege that such third party, and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in Section C for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim. Provided, that on transfer of an under-tenure, which by the provisions of this Act or any other law for the time being in force is required to be registered in the Sherishteh of the Zemindar or superior tenant, shall be recognized unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

Proviso.

Mode of adjudicating such claims.

CVII. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favor of sharers in undivided estates or tenures.

CVIII. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure, situate in such undivided estate or talook or tenure, application for the sale of such under-tenure shall not be received, unless execution shall have been first taken out against any moveable property which the judgment-debtor may posses within the District in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. In such case such under-tenure, if of the nature described in Section CV, may be brought to sale in execution of the decree, in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following Sections.

If judgment cannot be satisfied by sale of debtor's moveable property, execution may be had against the immoveable.

CIX. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the District in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

Mode of executing process, if immoveable property be a house or other building; or a saleable under-tenure; or an estate or share of an estate.

CX. If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of Sections XCVIII and XCIX shall be applicable to the execution of such process. If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force, applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof. If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

Consequence of objection being offered before the sale of any immoveable property.

CXI. If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in Section C for the examination of third parties, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in Section CVII.

Produce of the land to be held hypothecated for the rent. Arrears of rent may be recovered by distraint under certain rules. Cultivators who have given security to be exempt from distraint. Three Provisoes.

CXII. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and, when an arrear of rent as defined in Section XX of this Act is due from any cultivator of land, the Zemindar, lakherajdar, farmer dependent talookdar, under-farmer, or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on, account of which the arrear is due under the following rules. Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to distraint. Provided also, that no sharer in a joint estate, dependent talook, or other tenure in which a division of lands has not been made amongst the shares, shall exercise the power of distraint otherwise than through a manager

authorized to Collect the rents of the whole estate, talook, or tenure, on behalf of all the sharers in the same. Provided further, that, in Putteedaree estates situated in districts under the Government of the Lieutenant-Governor of the North-Western Provinces, distraint shall be made only through a Lumberdar.*

No distraint in certain cases.

CXIII. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint to be exercised by managers under the Court of Wards, &c.

CXIV. The power of distraint, vested by Section CXII in Zemindars and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, Surburakars, and Tuseeldars of estates held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by the Naibs, Gomastahs, and other agents employed by any such persons as aforesaid in the collection of rent, if expressly authorized by power of attorney in that behalf. Provided that, if any illegal act is committed by any such Naib, Gomastah, or other agent under color of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accuring by reason of such act.

Proviso.

Standing crops, and crops gathered but not stored, liable to distraint.

CXV. Standing crops and other ungathered products of the earth, and crops or other products, when reaped or gathered and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

Defaulter to be served with a written demand, &c., before or at the time of distraint.

CXVI. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or, if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress to be proportionate to the arrear, if not paid or tendered. List of property to be distrained, to be served on owner.

CXVII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or, if he be absent, affix it at his usual place of residence.

Standing crops, &c., when attached, to be reaped and stored by the cultivator, or, if he neglect to do so, by the distrainer.

CXVIII. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose. Crops or products, which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products, or any part of the same, would be fit for cutting or gathering.

Distrainer may apply to the Collector in case of resistance.

CXIX. If a distrainer shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an Officer to support the distrainer in making the distraint.

Persons empowered to distrain may give written authority to their servants to do so.

CXX. When any person, empowered to distrain property under Section CXII or Section CXIV, shall employ a servant or other person to make the distress, he shalt give to such servant or person a written authority (which may be on plain paper) for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Distress to be withdrawn, if defaulter tender payment prior to the day of sale.

CXXI. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Application for sale.

CXXII. Within five days from the time of the storing of any distrained crops or products, or, if the crops or products do not from their nature admit of

* See Act XIV. 1863.

being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court Ameen, or other officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate, or to such other public Officer as the local Government shall appoint for the purpose.

Form of application. Cost of notice to be deposited by distrainer.

CXXIII. The application shall be in writing, and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due, and the date of the distress, and the place in which the distrained property is deposited. Together with the application, the distrainer shall deliver to the Civil Court Ameen or other officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Procedure by Civil Court Ameen, &c., on receipt of application.

CXXIV. Immediately on receipt of the application the Civil Court Ameen or other officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the Schedule to this Act, or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice. He shall at the same time send to the Collector for the purpose of being put up in his office, and if in the North-Western Provinces, in the cutcherry of the Tuhseeldar, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited. The proclamation shall contain a description of the property, the demand for which it is to be sold, and the place where the sale is to be held.

Ameen to suspend sale on Collector's certificate of the institution of a suit.

CXXV. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court Ameen or other officer, or, if so requested, shall deliver to the owner of the distrained property a certificate of the institution of such suit; and on such certificate being received by or presented to the Ameen or other officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before issue of notice of sale.

CXXVI. A person, whose property has been distrained in the manner hereinbefore provided, may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale. When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding Section. If thereafter application for the sale of the property is made to the Civil Court Ameen or other officer, he shall transmit a copy of the application to the Collector, and suspend further proceedings pending the decision of the case.

Distress to be withdrawn on Collector's certificate that the owner has executed a bond with security.

CXXVII. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and, when such bond is executed, the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same; and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector, the property shall be released from distraint.

On expiry of period fixed, institution of suit not having been certified, sale may be proceeded with.

CXXVIII. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court Ameen or other officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place & manner of sale of distrained property.

CXXIX. The sale shall be held at the place where the distrained property is deposited, or at the nearest gunge, bazar, haut, or other place of public resort, if the Civil Court Ameen or other officer should be of opinion that it is likely to sell there to better advantage. The property shall be sold by public auction in one or more lots as the Officer holding the sale may think advisable; and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately with-drawn with respect to the remainder.

If fair price be not offered, sale may be postponed to another day, but shall be then completed.

CXXX. If, on the property being put up for sale, a fair price in the estimation of the Officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market day if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed whatever price may be offered for the property.

CXXXI. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the Officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold. When the purchase money has been paid in full, the Officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Payment of purchase money.

CXXXII. From the proceeds of the sale of distrained property the Officer holding the sale shall make a deduction at the rate of one Anna in the Rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government. He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in Section CXXIV to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow. The remainder shall be applied to the discharge of the arrear for which the distraint was made with interest thereon up to the day of sale, and, if there be any overplus, it shall be delivered to the person whose property shall have been sold.

Proceeds of sale.

CXXXIII. Officers holding sales of property under this Act, and all persons employed by or subordinate to such Officers, are prohibited from purchasing either directly or indirectly any property sold by such Officers.

Officers holding sales prohibited from purchasing.

CXXXIV. Civil Court Ameens and other officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distraners under color of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court Ameen or other officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under Section CXXIV or pass such other order as he may think proper.

All irregularities to be be reported to the Collector. Officer not to proceed to sale, if defaulter has not received due notice.

CXXXV. When a Civil Court Ameen or other officer has proceeded to any place for the purpose of holding a sale, and no sale takes place either for the reason stated in the last preceding Section, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court Ameen or other officer, the charge of one Anna in the Rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property. If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary. In every other case it shall be paid by the distrainer, and my be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector. Provided always, that in no case shall a larger amount than ten Rupees be recoverable under this Section.

Recovery of expenses, if Ameen proceeds to place of sale and no sale takes place.

CXXXVI. All proceedings under this Act of the Civil Court Ameen and other officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors, with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court Ameens and other officers as may be thought necessary.

Proceedings of Ameens, &c., subject to orders of Collectors.

CXXXVII. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court Ameen or other officer authorizing the sale of the property, and, on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court Ameen or other officer, such Ameen or officer shall publish a second proclamation in the manner prescribed in Section CXXIV, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Second proclamation of sale.

CXXXVIII. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act. If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favor of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding Section if the distress has not been withdrawn, and if any balance remain due after such sale by execution of the decree against the person and any other property of the defaulter, or if the property have been released on security by execution of the decree against the person and property of the defaulter and of his surety. If on the other hand the distraint is adjudged to be vexatious or groundless, the Collector, besides

Procedure after institution of suit to contest distrainer's demand.

directing the release of the distrained property, may award such damages in favor of the plaintiff as the circumstances of the case shall seem to require.

Any person, whose property has been distrained for arrears from another, may sue distrainer, &c.

CXXXIX. If any person shall claim as his own property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner, and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as the person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand. When any such suit is instituted, the property may be released upon security being given for the value of the same. If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer. If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require. Provided always, that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Proviso.

Procedure if distrainer's right to distrain be disputed.

CXL. If, in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always, that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Proviso.

Persons prevented from suing in time to save their property from sale, may sue for damages.

CXLI. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand, or to try the right to the property as the case may be, within the period allowed by Sections CXXIV and CXXXIX and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by any illegal act of distrainer.

CXLII. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged, or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

CXLIII. If any person not empowered to distrain property under Sections CXII and CXIV of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under color of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale. The said person shall be held to have, committed criminal trespass, and shall be subject to the penalties for that offence, in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages.

CXLIV. Provided always, that any suit which may be instituted under any of the last three Sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of distraint.

CXLV. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and, if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the Civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress

and sale of the property of the offender under warrant of the Collector. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding One Hundred Rupees, or in default of payment thereof to imprisonment for a period not exceeding two months.

Service of process.

CXLVI. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the Nazir or by such other officer as the Collector may direct at the cost of the party at whose instance it issued. The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued. Provided that, if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Proviso.

Resistance of process.

CXLVII. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of Civil justice. When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and, if after due service of the summons he fail to attend, may issue a warrant for his apprehension. Orders passed by Collectors under this Section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of Section CLI.

Collector competent to hold a Court in any part of his jurisdiction.

CXLVIII. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his District or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

CXLIX. Repealed by Act XX. 1865.

Powers of Deputy Collectors.

CL. All the powers vested in the Collector by the preceding Sections of this Act may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference, by any Deputy Collector placed in charge of any Sub-division of a District; and all applications and reports allowed or required by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction.

Collectors and Deputy Collectors how far to be subject to direction and control of the Commissioners and the Board of Revenue.

CLI. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Board of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate. All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no Judgment of a Collector or Deputy Collector in any suit and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

CLII. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days from the date of the order. Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case, and pass such orders thereon as they may think proper.

No appeal from any decree of Collector for money below 100 Rupees unless it involve the right to enhance rents or a title to land.

CLIII. In suits under Clauses 2, 4, and 7 of Section XXIII and under Section XXIV of this Act tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed One Hundred Rupees, the judgment of the Collector shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a ryot or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in Sections CLX and CLXI of this Act.

When Collector may grant a re-hearing upon the discovery of new evidence, &c.

CLIV. In suits in which the judgment of the Collector is final as provided in the last preceding Section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce at the time of trial.

Appeal from decision of Deputy Collector.

CLV. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Petition of appeal to be on stamp paper, &c.

CLVI. The petition of appeal shall be written on stamp paper of eight annas value, and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

CLVII. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons. If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default. If the appellant shall appear, and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex-parte*.

Re-admission of appeal.

CLVIII. If an appeal be dismissed for default of prosecution, the appellant may within fifteen days from the date of the dismissal apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Judgment in appeal.

CLIX. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

In what suits appeal to lie to Zillah Judge. To Sudder Court.

CLX. In all suits other than those in which, when tried and decided by a Collector the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zillah Judge; unless the amount or value in dispute exceed five thousand Rupees, in which case the appeal shall lie to the Sudder Court.

Presentation and hearing of appeals.

CLXI. The petition of appeal shall be written on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal, and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zillah Judge or Sudder Court under this Act.

Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the lands is situate.

CLXII. Suits under this Act shall be preferred in the Revenue Office of the District, or when a Sub-division of a District has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the Sub-division in which the cause of action shall have arisen. Provided always, that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement or at one entire rent in respect of which arrears of rent may be due, are situated in more than one District or Sub-division, the District or Sub-division in which the greater part of such lands is situate shall be held to be the District or Sub-division in which the cause of action has arisen; and if any question shall be raised respecting the District or Sub-division in which the greater part of the lands is situate, the Board of Revenue, or, if all the lands be situate in one District, the Collector of the District shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Proviso.

Except as above, Collector not to exercise jurisdiction as to lands situate beyond his District.

CLXIII. Except as provided in the last preceding Section, no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the District to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the Treasury of the said District.

Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.

CLXIV. No Deputy Collector appointed under Regulation IX. 1833 of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act, if entrusted with any Police functions.

What powers to be exercised by Assistants to Collector.

CLXV. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation VIII. 1819.

CLXVI. Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent Putnee Talooks and other similar tenures under the provisions of Regulation VIII. 1819.

CLXVII. Repealed by Act XIV. of 1870.

CLXVIII. The words "Civil Jail" as used in this Act shall include the Civil Jail of the Zillah, and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act. The word "Nazir" shall include any officer of a Court authorized to serve or execute its process. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

Commencement of Act.

"Civil Jail." "Nazir." Number. Gender.

SCHEDULE.

FORM A. *(See Section 44.)*

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated
In the Court of

A. B., Plaintiff.

[*Name, description, and address of plaintiff.*]

C. D., Defendant.

[*Name, description, and address of defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement,*) you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state, "in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"*] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM B. *(See Section 49.)*

FORM OF WARRANT OF ARREST.

No. (of suit) dated
In the Court of

A B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of——

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 185

FORM C. *(See Section 49.)*

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[*Name, description, and address of plaintiff.*]

C. D., Defendant.

[*Name, description, and address of defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement*) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM D. *(See Section 51.)*

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Collector of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts specify some sum to be fixed by the Collector.

FORM E. *(See Section 86.)*

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of———

Whereas the said C. D. was directed by a decree of this Court under date the day of 185 , to pay to A. B. the sum of and for costs of suit amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D. and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM F. *(See Section 86.)*

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of———

Whereas C. D. was directed by a decree of this Court under date the day of 185 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D., on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner payed ; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

FORM G. *(See Section 124.)*

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office Commissioner for sale of distrained property.

A. B., Distrainer.

[*Name, description, and address of the owner of the property.*]

Whereas the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 185

ACT No. XI. OF 1859.*

(Received the assent of the Governor-General on the 4th May 1859.)

SALES OF LAND FOR ARREARS OF REVENUE (BENGAL) ACT.

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3. *Latest day of payment.*
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50. *Effect of entry in the special register.*
51. *Protection of talookdaree tenures pending enquiry, in case of sale of parent estate for arrears of revenue.*

* Act III. 1862 B. C. to be read as part of this Act, also Act VII. 1868 B. C.

52. Rights of a purchaser of an estate not permanently settled sold for its own arrears.
53. Rights of a purchaser, being a sharer in any estate. And of a purchaser of an estate, not sold for its own arrears.
54. Rights of purchasers of shares of estate.
55. Recovery of arrears due to defaulters.
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60. Regulations VII. 1822 and IX. 1825 to be in force in certain estates.
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An Act to improve the law relating to sales of Land for arrears of Revenue in the Lower Provinces under the Bengal Presidency.

WHEREAS it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue or other demands of Government, in the province of Cuttack; and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured: and whereas it is expedient to afford sharers in estates, who duly pay their shares of the Sudder Jumma of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers: and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents: and whereas it is expedient to provide for the voluntary registration of dependent talooks existing at the time of settlement: and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale: and to give absolute security to such tenures by special registry, when shown to be held at rents sufficient for the security of the revenue; and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the Provinces of Bengal, Behar, and Orissa: It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

What is an arrear of revenue.

II. If the whole or a portion of a kist or instalment of any month of the era, according to which the settlement and kistbundee of any mehal have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of payment.

III. Upon the promulgation of this Act, the Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realized in the same manner as arrears of revenue, shall be paid up in each District under their jurisdiction, in default of which payment, the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder. And the said Board shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the office of the Collector or other Officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate, (or Joint Magistrate, as the case may be,) and Moonsiffs, and at every Thannah station of that district; and the dates so fixed shall not be changed except by the said Board by advertisement and notification, in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

In Sylhet, personal property of defaulters may in the first instance be distrained and sold.

IV. Provided that, in the district of Sylhet, the Collector may be authorized by the Board of Revenue to proceed in the first instance by the distress and sale of the personal property of defaulters, instead of by the sale of their estates.

Proviso in the case of certain descriptions of arrears.

V. Provided always, that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment according to Section III of this Act, in the office of the Collector or other Officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land

advertised lies, and in the Moonsiff's Court and Police Thannah of the division in which the estate or share of an estate to which the notification relates, is situated; or if the estate or share of an estate be situated within the jurisdiction of more than one Moonsiff's Court or Police Thannah, in some one or more of such Courts or Thannahs; and also at the cutcherry of the malgoozar or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

First. Arrears other than those of the current year, or of the year immediately preceding.

Secondly. Arrears due on account of estates other than that to be sold.

Thirdly. Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

Fourthly. Arrears due on account of tuccavee, poolbundee, or other demands not being land revenue, but recoverable by the same process as arrears of land revenue.

Notifications of sale to be issued, and no tender after latest day of payment to stop the sale.

VI. The Collector or other Officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in Section III of this Act, issue notifications in the language of the district, to be affixed in his own Office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than fifteen or more than thirty clear days from the date of affixing the notification in the officer of the Collector or other Officer as aforesaid. And if the Government revenue of any estate or share of an estate to be sold exceed the sum of Five Hundred Rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette. Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other Officer as aforesaid, and shall be sold to the highest bidder. And no payment, or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

Notice to ryots, &c.

VII. Whenever an estate or share of an estate is notified for sale as provided by Section VI of this Act, the Collector or other Officer as aforesaid shall affix a proclamation in the language of the district, in his own Office, and as soon thereafter as may be in the Moonsiffs' Courts and Police Thannahs within which the estate or share of an estate, or any part of it, is situated, and also at the cutcherry of the malgoozar or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, forbidding the ryots and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

Claims against Government held by a defaulter not to invalidate a sale.

VIII. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collectors hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in Section XV of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due.

Deposits receivable from persons not proprietors.

IX. The Collector or other Officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to Section III of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due, to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate. And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due, or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in Civil suits. And if the person so depositing whose money shall have been credited as aforesaid, shall prove before a competent Civil

Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor. And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

Separation of shares held in common, by the opening of a separate account.

X. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the share held in the estate by the applicant. The Collector shall then cause to be published in his own Office, in the Court of the Judge, Magistrate (or Joint Magistrate, as the case may be,) and Moonsiffs, and in the Police Thannahs in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him. If within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

Separation of shares consisting of specific portions of land, by the opening of a separate account.

XI. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of sudder jumma heretofore paid on account of it. On the receipt of this application, the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding Section. In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

If objection be made, parties to be referred to the Civil Court.

XII. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that is interest in the estate is less or other than that claimed by him, or, if the application be in respect of a specific portion of the land of an estate, that the amount of sudder jumma stated by the applicant to have been heretofore paid on account of such portion of land, is not the amount which has been recognized by the other sharers as the jumma thereof, the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

Sale of separate shares.

XIII. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other Officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which according to the separate accounts, an arrear of revenue may be due. In all such cases notice of the intention of excluding the share or shares from which no arrear is due, shall be given in the advertisement of sale prescribed in Section VI of this Act. The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion, or the aggregate of the several separate portions, or jumma assigned thereto.

Entire estate may be sold under certain conditions.

XIV. If in any case of a sale held according to the provisions of the last preceding Section, the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other Officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share. If such purchase be completed, the Collector or other Officer as aforesaid shall give such certificate and delivery of possession as are provided for in Sections

XXVIII and XXIX of this Act, to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale. If no such purchase be made within ten days as aforesaid. the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in Section VI of this Act.

Deposit for the protection of an estate from sale.

XV. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector, and shall sign an agreement pledging the same to Government by way of security for the jumma of the entire estate and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then, in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under Section III of this Act, the Collector shall apply to the payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain. And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue. All monies and securities so deposited shall be exempt from attachment otherwise than in execution of a decree of a Civil Court.

Withdrawal of the deposit.

XVI. It shall be competent to the person making a deposit under the provision of the last preceding Section, or his representative or assignee, at any time to withdraw the deposit and to revoke the pledge of the same.

Estates under Court of Wards or under attachment.

XVII. No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate the sole property of a minor or minors, and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI. 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until the minor or minors, or one of them, shall have attained the full age of eighteen years. And no estate, held under attachment by the revenue authorities otherwise than by order of a judicial authority, shall be liable to sale for arrears accruing whilst it was so held under attachment. And no estate, held under attachment or managed by a Revenue Officer in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment or management, until after the end of the year in which such arrears accrued.

Estates may be specially exempted from sale.

XVIII. It shall be competent to the Collector or other Officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other Officer as aforesaid to that effect in each case; and no such sale shall be legal, if held after the receipt of such order of exemption. Provided, however, and it is hereby enacted, that the Collector or other Officer as aforesaid or the Commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also, that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other Officer as aforesaid of the order of exemption.

Proviso.

Sales where to be made.

XIX. Sales shall ordinarily be made by the Collector or other Officer as aforesaid in the land revenue Office at the Sudder Station of the District; provided, however, that it shall be competent to the Board of Revenue to prescribe a place for holding sales other than such Office whenever they shall consider it beneficial to the parties concerned.

Adjournment of sales.

XX. In case the Collector or other Officer as aforesaid shall be unable from sickness, from the occurrence of a holiday, or from any other cause, to commence the sale on the day of sale fixed as aforesaid; or if, having commenced it, he be unable, from any cause, to complete it; he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the commissioner of Revenue, and announcing the adjournment by a written proclamation stuck up in his cutcherry; and so on, from day to day, until he shall be able to commence

upon, or to complete the sale; but, with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of selling.

XXI. On the day of sale fixed according to Section VI of this Act sale shall proceed in regular order; the estate to be sold bearing the lowest number on the towjee or register in use in the Collector's Office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other Officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so on default of deposit, as provided in Section XXII of this Act.

Deposit on account of purchase money.

XXII. The party who shall be declared the purchaser of an estate or share of an estate, at any such public sale as aforesaid, shall be required to deposit immediately or as soon after the conclusion of the sale of the estate or share as the Collector or other Officers as aforesaid may think necessary, either in cash, Bank of Bengal Notes, or Post Bills or Government Securities to be valued at the market rate of the day, duly endorsed, twenty-five per cent on the amount of his bid; and in default of such deposit, the estate or share shall forthwith be put up again and sold.

Full payment of purchase money.

XXIII. The full amount of purchase money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth: and in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be resold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold. And, in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase money and shall be dealt with in the manner hereinafter prescribed for the disposal thereof.

Re-sale.

XXIV. When default is made in the payment of purchase money a notification of the intended re-sale shall be published for the period and in the manner prescribed in Section VI of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred; and if the payment or tender of payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding Section shall be applicable to every such resale. Provided that, if default of payment of purchase money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levid in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

Proviso.

XXV. Repealed by Act VII. 1868 B. C.

Annulment of sale in special cases.

XXVI. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Board of Revenue, who, if they see cause, may recommend to the local Government to annul the sale; and the local Government in any such case may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when final.

XXVII. All sales of which the purchase money has been paid up as prescribed in Section XXIII of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the thirtieth day from the day of sale, reckoning the said day of sale as the first of the said thirty days. And sales, against which an appeal may have been preferred and dismissed by the Commissioner, shall be final and conclusive from the date of such dismissal if more than thirty days from the day of sale, or if less, then at noon of the thirtieth day as above provided.

Certificate of sales.

XXVIII. Immediately upon a sale becoming final and conclusive, the Collector or other Officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A annexed to this Act. And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified; and the Collector shall also notify such transfer by writ-

ten proclamation in his own Office, and in the Courts of the Moonsiffs, and Police Thannahs within whose jurisdictions any part of the estate or share sold shall be situated.

Delivery of possession.

XXIX. The Collector or other Officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy of the certificate at the Mal cutchery or in some conspicuous place of the estate or share of an estate purchased.

Liability of purchaser.

XXX. The party certified as the proprietor of an estate or share of an estate by purchase under this Act, shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid.

Application of purchase money.

XXXI. The Collector shall apply the purchase money first to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and secondly to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the District; holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in the manner following; to wit, in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. And if, before payment to the late proprietor or proprietors of any surplus that may remain of the chase money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

Notification of annulment of sale.

XXXII. The annulment by a Commissioner or by Government of a sale made under this Act shall be publicly notified by the Collector or other Officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by Section XXVIII of this Act; and the amount of deposit and balance of purchase money shall be forthwith returned to the purchaser with interest thereon at the highest rates of the current Public Securities; which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of Section XXV or Section XXVI of this Act.

Jurisdiction of Civil Courts in suits to annul sales.

XXXIII. No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act; and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under Section XXV of this Act: and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in Section XXVII of this Act: and no person shall be contitled to contest the legality of a sale, after having received any portion of the purchase money. Provided, however, that nothing in this Act contained shall be construed to debar any person, considering himself wronged by any act or omission connected with a sale under this Act, from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Proviso.

Effects of annulment by decree of Court of sales under this Act

XXXIV. If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favor such decree was passed shall lose all benefit therefrom. And no order for restoring such decree-holder to possession shall be passed, until any amount of surplus purchase money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of the current Government Securities. And if such party shall neglect to pay any amount so recoverable, within six months from the date of such final decree, he shall lose all benefit therefrom.

If sale annuled, purchase money to be refunded.

XXXV. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current Public Securities.

Suit brought to oust a purchaser on the

XXXVI. Any suit brought to oust the certified purchaser as aforesaid on the ground that the purchase was made on behalf of another person not the

ground that the purchase was made for another person, to be dismissed.

certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of a purchaser of a permanently settled estate sold for its own arrears.

XXXVII. The purchaser of an entire estate in the permanently settled districts of Bengal, Behar, and Orissa, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement; and shall be entitled to avoid and annul all under-tenures and forthwith to reject all undertenants, with the following exceptions:

First. Istemraree or mokurreree tenures which have been held at a fixed rent from the time of the permanent settlement.

Secondly. Tenures existing at the time of settlement which have not been held at a fixed rent. Provided always, that the rents of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly. Talookdaree and other similar tenures created since the time of settlement and held immediately of the proprietors of estates, and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

Fourthly. Leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years; but not otherwise.

Proviso.

Provided always, that nothing in this Section contained shall be construed to entitle any such purchaser as aforesaid to eject any ryot, having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such ryot otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Registration of talookdaree tenures created after settlement and held for terms of years.

XXXVIII. The following rules for the registration of talookdaree and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates, and of farms for terms of years so held, shall be observed.

Common and special registry.

XXXIX. There shall be two sets of registers, one for common registry and one for special registry. Common registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue except the Government. Special registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue including the Government.

Application for registry.

XL.* The holder of any talookdaree or other similar tenure, such as is described in Section XXXVIII. of this Act, desirous of registering it, shall apply by petition to the Collector of the District to which the estate belongs. The application shall state which description of registry is desired, and shall contain the following particulars so far as the same are ascertainable:—

1. The Pergunnah or Pergunnahs in which the tenure is situated.
2. The nature of the tenure.
3. The name or names of the village or villages whereof the land is composed, or wherein it is situated.
4. The area of the land comprised in the tenure, with its boundaries in complete detail.
5. The amount of rent payable annually for the tenure, and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it.
6. The date of the deed constituting the tenure, or the date when the tenure was created.
7. The name of the proprietor who created the tenure.
8. The name of the original holder of the tenure.
9. The name of the present possessor, and if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase, or otherwise, and whether he holds jointly or solely.

* See Act III, 1862, Sec. 2 of the Lieutenant Governor of Bengal in Council.

Holders of such farms as are described in the said Section may apply in like manner for registry of the same. The application shall contain such of the foregoing particulars as are applicable to farms.

Procedure on application for common registry.

XLI. When the application is for common registry, the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorized agent of such proprietor or proprietors, with a copy of the application annexed; and shall cause a notice, with a copy of the application annexed, to be affixed in his Office, and at the Mal Cutcherry of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm, or to any stat ement contained in the application. If within the limited time no objection is made, the Collector shall register the tenure or farm. If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall grant the application. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall register the tenure or farm.

Procedure on application for special registry.

XLII. When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding Section. If within the limited time no objection is made, the Collector shall cause any enquiry that he may deem necessary for the security of the Government revenue, to be made; and if he is satisfied that the Government revenue of the parent estate is sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application; otherwise the application shall be rejected. If within the limited time any recorded proprietor, or any party interested not being a proprietor, object to the registry, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time.

Registration of leases of certain lands.

XLIII.* Leases of lands of the description specified in the fourth exceptional class in Section XXXVII, may be registered, at the option of the holders, in the manner and under the rules hereinbefore provided for the registry of Talookdaree and other similar tenures.

Registration of old tenures.

XLIV.* Tenures of the first and second exceptional classes in Section XXXVII may be registered, at the option of the holders; and when so registered shall be entered only in the special register. Application for such registry shall contain the particulars specified in Section XL so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in Section XLI. If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such enquiries as may be necessary to satisfy him as to the validity of the tenure; and if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register; otherwise the application for registry shall be rejected. If within the limited time any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time. Provided always that nothing contained in this Section shall be understood as rendering registration necessary for the protection of *bonâ fide* tenures of the description herein referred to.

Proviso.

* See Act III, 1862, Sec. 2 of the Lieutenant-Governor of Bengal in Council.

XLV. Repealed by Sec. 1 Act III 1862. of the Lieutenant Governor of Bengal in Council.

Expenses of measurement, survey, or local enquiry.

XLVI. The actual expenses of any measurement, survey, or local enquiry made under Sections XLII and XLIV of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary.

Civil Court not competent to order entry in the special register.

XLVII. No Civil Court shall be competent to order the Revenue Authorities to enter any tenure or farm in the special register. Provided always that the refusal of the Revenue Authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be.

Suit for the cancelment of the registry of a tenure or farm.

XLVIII. Subject to the general law of limitation, any person thinking himself wronged by the registry of a tenure or farm, may file a suit for the cancelment of the same.

Proceedings of Revenue Authorities in the registration of tenures, &c.

XLIX. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue Authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue Authorities to whom they are subordinate, and from the local Government; and all orders passed under the Sections aforesaid shall be open to appeal in usual course. The order of a Commissioner for the special registry of a tenure under the provisions of this Act shall be open, at any time within one year from the date of registry, to revision by the Board of Revenue or the local Government, on the ground of the Government Revenue not having been sufficiently secured or of the invalidity of the tenure, as the case may be.

Effect of entry in the special register.

L. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless, in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue, a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue. Provided, that a tenure or farm in the hands of a *bonâ fide* purchaser for value shall not be avoided by reason of such fraud. But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof, such amount to be fixed by the Collector.

Proviso.

Protection of talookdaree tenures pending enquiry, in case of sale of parent estate for arrears of revenue.

LI. Tenures and farms of the third exceptional class described in Section XXXVII of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the enquiry prescribed in Section XLII, shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the duration of such enquiry, and shall be protected eventually by registration, if the final award of the Revenue Authorities upon such application be in favor of the claimant.

Rights of a purchaser of an estate not permanently settled sold for its own arrears.

LII. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annual all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like settled or accredited by the first engager or his representatives subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to sate aside, alter or renew; saving always and except leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated the such purposes, and the stipulated rent paid, continue in force and effect. Provided that nothing contained in this Section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may by annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the the land, or in cases in which it may be proved that, according to the custom of the pergunnah, mouzah, or other local division, such persons are liable to be called upon for any new assessment, or other demand not interdicted by the regulations of Government.

Proviso.

Rights of a purchaser, being a sharer in any estate. And of a purchaser of an estate not sold for its own arrears.

LIII. Excepting sharers in estates under butwarrah who may have saved their shares from sale under Sections XXXIII and XXXIV Regulation XIX. 1814, and sharers with whom the Collector, under Sections X and XI of this Act, has opened separate accounts, any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner; or

who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or ryots, which were not possessed by the previous proprietor at the time of the sale of the said estate.

Rights of purchasers of shares of estate.

LIV. When a share or shares of an estate may be sold under the provisions of Section XIII or Section XIV, the purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners.

Recovery of arrears due to defaulters.

LV. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or ryots, shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint which might have been issued by him for that purpose on or before the said latest day.

Punishment for contempt.

LVI. Any Collector or other officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open cutchery or office for the time being, by fine, to an extent not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment in the Civil jail for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector or other officer as aforesaid, shall carry his sentence into effect. Provided, that an appeal from any order passed under this Section shall lie to the Revenue Commissioner, whose decision shall be final.

Proviso.

Default in making deposit to be considered a contempt.

LVII. A default to make good a bid by making the deposit required by Section XXII of this Act, shall be held to be a contempt.

Government may purchase at a sale.

LVIII. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, the Collector or other officer as aforesaid may purchase the estate on account of the Government for One Rupee, or, if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid; in both which cases the Government shall acquire the property subject to the provisions of this Act.

LIX. Repealed by Se. 1. Act III, 1862, of the Lieutenant Governor of Bengal in Council.

Regulations VII. 1822 and IX. 1825 to be in force in certain estates.

LX. The provisions of Regulation VII. 1822 and Regulation IX. 1825 shall be in force in every estate in any part of which a measurement, survey, or local enquiry may be made under this Act; and in every estate purchased or taken on account of Government under this Act.

Interpretation.

LXI. In the construction of this Act the word "Collector" shall include a Deputy Collector or other officer exercising by the anthority of Government the powers of a Collector or Deputy Collector.

Application and commencement of this Act.

LXII. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal as are or shall be subject to the general Regulations of that Presidency.

SCHEUDLE A.

I certify that A. B has purchased under Act No. XI of 1859 the mehal (*or share of a mehal*) specified below, standing in the towjee of the district of and that his purchase took effect on the day of (*being the day after that fixed for last day of payment*).

(Signed) D. E.,
Collector.

SPECIFICATION.

(*if of an entire Mehal.*)

Towjee number
Name of Mehal
Name of the former proprietor
Sudder Jumma

(*if of a share of a Mehal.*)

Towjee number of the entire Mehal
Name of the entire Mahal
Sudder Jumma of the entire Mehal

Description of the share sold
Subordinate Towjee number of the share sold
Name of the former proprietor of the share sold
Sudder Jumma for which the share sold is separately liable.

SCHEDULE B.

FEES.

For filing an application under Section X or Section XI for opening a separate account for a share of an entire estate.

If the annual jumma of the share do not exceed 250 Rupees, 25-0-0.

If the annual jumma of the share exceed 250 Rupees and do not exceed 1,000 Rupees, at the rate of ten per cent. upon the jumma.

If the annual jumma of the share exceed 1,000 Rupees, at the rate of ten per cent upon 1,000 Rupees, and two per cent upon all above that amount.

For filing an application for a deposit of money or Government Securities under Section XV, half per cent. on the amount deposited.

For any interest on Government Securities so deposited, drawn by the Collector, half per cent. of the amount drawn.

For filing an application for withdrawal of a deposit under Section XVI, half per cent. of the amount withdrawn.

For filing an application under Section XL, XLIII, or XLIV, for the registration of an under-tenure or farm.

If the annual rent of the under-tenure do not exceed 500 Rupees, 25-0-0.

If the annual rent of the under-tenure exceed 500 Rupees and do not exceed 1,000 Rupees, at the rate of five per cent. upon the rent.

If the annual rent of the under-tenure exceed 1,000 Rupees, at the above rate up to 1,000 Rupees, and at one per cent. upon all above that amount.

ACT NO. XII. OF 1859.

(Received the assent of the Governor-General on the 4th May 1859.)

1. *Acts repealed.*
2. *How Pilots accused of breach of duty shall be brought to trial.*
3. *Appointment of judge.*
4. *Appointment of prosecutor.*
5. *Trial to be held before the judge and jury.*
6. *Lists of Merchants and Pilots liable to serve on the jury.*
7. *Notice to prosecutor and accused of time and place for appointing jury.*
8. *Appointment of jury.*
9. *Day of trial to be fixed, and summons to issue to jurors. Penalty for non-attendance.*
10. *Trial how to proceed, if any of the jurors do not attend.*
11. *Register of jurors who have served.*
12. *Jurors to be sworn.*
13. *Judge may summon witnesses to attend at a certain time and place. Examination of witnesses about to leave Calcutta.*
14. *Penalty on witnesses not attending, or refusing to give evidence.*
15. *Witnesses to be examined on oath, according to the rules in force in the Supreme Court.*
16. *Verdict of Jurors.*
17. *Sentence of Court, if the accused be found guilty. Schedule of offences and punishments to be prepared. Acquittal.*
18. *No sentence to be final, till approved by Government. Government may remit sentence or mitigate punishment.*
19. *If vendici of Jurors be manifestly contrary to evidence, or trial be otherwise insufficient.*
20. *Power of Government to make rules of practice.*
21. *Act not to restrict Marine Authorities or Government from passing orders upon a charge of breach of duty, where a trial is not deemed necessary.*
22. *Withdrawal of license from licensed Pilot.*
23. *Act applicable to persons in the Pilot Service and to licensed Pilots.*

An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.

WHEREAS it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, when accused of breach of duty, and to extend the same to persons licensed to act as Pilots at the said Presidency; it is enacted as follows:

I. Repealed by Act XIV. of 1870.

How Pilots accused of breach of duty shall be brought to trial.

II. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, or licensed to act as a Pilot at the said Presidency, shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the Superintendent of Marine, or to the Lieutenant-Governor of Bengal, that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said Superintendent of Marine, or such other person as the said Lieutenant-Governor shall direct, before a Court constituted under the provisions of this Act.

Appointment of Judge.

III. The Lieutenant-Governor of Bengal shall appoint a fit person to be Judge of the said Court.

Appointment of Prosecutor.

IV. The Lieutenant-Governor shall appoint such person as he may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Trial to be held before the Judge and Jury.

V. Every trial under this Act shall be held before the said Judge and a Jury composed of two Merchants of Calcutta, a Master of a merchant ship lying in the port of Calcutta, and a Pilot of not less than twenty years, service.

Lists of Merchants and Pilots liable to serve on the Jury.

VI. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of Merchants, the other containing the names of Pilots liable to serve on such Jury. The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be estated.

Notice to prosecuto and accused of time and place for appointing Jury.

VII. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a Jury to serve at such trial.

Appointment of Jury.

VIII. At the time and place mentioned in the notice, the Judge, in the presence of the prosecutor and the person accused, shall read over the names which first occur in each of the said lists of those Merchants and Pilots who he has reason to believe are present in Calcutta and capable of attending as Jurors at the trial; and shall also propose the name of a Master of a merchant ship lying in the port of Calcutta, whom he deems qualified to serve on such Jury. If no objection be made and allowed, the persons so nominated shall be the Jury to serve at the trial. If the prosecutor or the party accused shall object to any of the persons named as Jurors, he shall assign the grounds of his objection, and such objection shall forthwith be decided by the Judge. If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the Jury provided no objection to such person be made and allowed as aforesaid.

Day of trial to be fixed and summons to issue to Jurors. Penalty for non-attendance.

IX. When a Jury has been appointed under the last preceding Section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a Jury. If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding Two Hundred Rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a Warrant to be issued for that purpose by the Judge. Such warrant may be transmitted by the Judge to any Magistrate of Police for the town of Calcutta, and thereupon such Magistrate shall endorse the same, and shall cause it to be executed in the same manner as if the Warrant had been issued by such Magistrate.

Trial how to proceed if any of the Jurors do not attend.

X. If for any cause any of the persons summoned to attend as Jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may, with the consent of the prosecutor and the party accused, be held before the judge and such jurors as shall be in attendance. If such consent be not given, the place of the absent Juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid. If the parties or either of them do not consent that the trial shall be held before the Judge and such

Jurors as may be in attendance, and the place of the absent Juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day, and the judge shall either re-summon the same jury or appoint and summon another jury in the manner hereinbefore provided.

Register of Jurors who have served.

XI. The Judge shall register in a book the names of all Jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act. A Juror who has served shall not be required again to serve, and his name shall be excluded in reading over the Jury lists, until all the persons named in the said lists who are present in Calcutta and capable of attending as Jurors shall have served.

Jurors to be sworn.

XII. Before the commencement of any trial under this Act, the persons summoned and attending as Jurors shall be sworn or affirmed by the Judge of the Court to give a true verdict according to the evidence.

Judge may summon witnesses to attend at a certain time and place. Examination of witnesses about to leave Calcutta.

XIII. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor, or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specifid in the summons, for the purpose of being examined at any trial before the said Court: or, if such person shall be about to depart from Calcutta, so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial; Provided always, that due notice of the time and place of such examination shall be given to the accused party; Provided also, that such witness may nevertheless be examinded at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.

Two Provisoes.

Penalty for witnesses not attending or refusing to give evidence.

XIV. If any person who shall have been duly summoned to attend as a witness, shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding Five Hundred Rupees, as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in Section IX of this Act.

Witnesses to be examined on oath, according to the rules in force in the Supreme Court.

XV. The evidence of every witness examined before the said Court shall be given on oath, affirmation, or otherwise, according to the rules in that behalf for the time being in force for the examination of witnesses in Her Majesty's Supreme Court of Judicature.

Verdict of Jurors.

XVI. Upon the completion of the trial, the Jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge. The verdict shall be according to the opinion of the majority of Jurors. If the Jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the Jurors with whom he concurs.

Sentence of Court, if the accused be found guilty.

XVII. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot Service, or to have his license withdrawn or shall award such other punishment by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit. The Lieutenant-Governor of Bengal, with the sanction of the Governor-General in Council, may prepare a Schedule of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and if such Schedule be prepared and sanctioned, and the charge proved before the said Court is an offence specified in such Schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said Schedule, and no other. If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same.

Schedule of offences and punishments to be prepared.

Acquittal.

No sentence to be final till approved by Government.

Government may remit sentence or mitigate punishment.

XVIII. The proceedings of the Court shall be sent by the Judge to the Superintendant of Marine for submission to the Lieutenant-Governor of Bengal; and no sentence of punishment pronounced by the Judge of the said Court shall be final, until it has been approved of by the said Lieutenant-Governor. The said Lieutenant-Governor may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court, as he shall think fit.

If verdict of Jurors be manifestly contrary to evidence, or trial be otherwise insufficient.

XIX. If it shall appear to the Judge of the said Court that the verdict of the Jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may either order a new trial before another Jury or acquit the accused person, as he shall think fit.

XX. It shall be lawful for the Lieutenant-Governor of Bengal to make such rules as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

Power of Government to make rules of practice.

XXI. Nothing contained in this Act shall be held to restrict the Marine Authorities or the Government from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot Service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

This Act not to restrict Marine Authorities or Government from passing orders upon a charge of breach of duty where a trial is not deemed necessary.

XXII. If any person licensed to act as Pilot, when duly charged with breach of duty as aforesaid, shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a Pilot at the said Presidency.

Withdrawal of license from licensed Pilot.

XXIII. The provisions of this Act shall extend to all persons employed in the Pilot Service at the said Presidency, and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, on are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as Pilots at the said Presidency.

Act applicable to persons in the Pilot service and to licensed Pilots.

ACT No. XIII OF 1859.

(Received the assent of the Governor-General on the 4th May 1859.)

1. *If a workman neglect to perform work, on account of which he has received an advance of money, complaint may be made to the Magistrate.*
2. *Magistrate may order re-payment of advance or performance of contract, at the employer's option. Penalty, if the workman fail to comply with the order.*
3. *Magistrate may require the workman to give security for due performance of order.*
4. *To what contracts the Act extends.*
5. *Act may be extended by Government.*

An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Laborers in certain cases.

WHEREAS much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several Presidency Towns of Calcutta, Madras, and Bombay, and in other places, from fraudulent breach of contract on the part of Artificers, Workmen, and Laborers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the Civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment; It is enacted as follows:—

I. When any Artificer, Workman, or Laborer shall have received from any Master or Employer resident or carrying on business in any Presidency Town, or in any station of the Settlement of Prince of Wales' Island, Singapore, and Malacca, or from any person acting on behalf of such Master or Employer, an advance of money on account of any work which he shall have contracted to perform, or to get performed by any other Artificers, Workmen, or Laborers, if such Artificer, Workman, or Laborer shall wilfully and without lawful or reasonable excuse neglect or refuse to perform or get performed such work according to the terms of his contract, such Master or Employer or any such person as aforesaid may complain to a Magistrate of Police, and the Magistrate shall thereupon issue a summons or a warrant, as he shall think proper, for bringing before him such Artificer, Workman, or Laborer, and shall hear and determine the case.

If a Workman neglect to perform work, on account of which he has received an advance of money complaint may be made to the Magistrate.

II. If it shall be proved to the satisfaction of the Magistrate, that such Artificer, Workman, or Laborer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such Artificer, Workman, or Laborer to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him

Magistrate may order repayment of advance or performance of contract, at the employer's option.

to perform, or get performed, such work according to the terms of his contract; and if such Artificer, Workman, or Laborer shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labor for a term not exceeding three months, or if the order be for the repayment of a sum of money, for a term not exceeding three months, or until such sum of money shall be sooner repaid; Provided, that no such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any Civil remedy by action or otherwise which he might have had but for this Act.

Proviso.

Workman to give security for fulfilment of contract.

III. When the Magistrate shall order any Artificer, Workman, or Laborer to perform or get performed any work according to the terms of his contract, he may also at the request of the complainant require such Artificer, Workman, or Laborer to enter into a recognizance with sufficient security for the due performance of the order; and in default of his entering into such recognizance or furnishing such security to the satisfaction of the Magistrate, may sentence him to be imprisoned with hard labor for a period not exceeding three months.

Definition of the word "contract."

IV. The word "contract," as used in this Act, shall extend to all contracts and agreements whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

This Act may be extended by the Supreme or Local Governments.

V. This Act may be extended by the Governor-General of India in Council, or by the Executive Government of any Presidency or place, to any place within the limits of their respective jurisdictions. In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such Officer or Officers as shall be specially appointed by Government to exercise such powers.

ACT No. XIV. OF 1859.*

(Received the assent of the Governor General on the 5th May 1859.)

1. Limitation of suits.
2. Suits against trustees and their representatives for breach of trust, &c. Proviso.
3. Shorter periods of limitation, if prescribed by particular Acts, to prevail.
4. Revival of right to sue by admission in writing. Proviso.
5. Computation of period of limitation in suits to recover property purchased from depositaries, pawnees. or mortgagees. Proviso.
6. Computation of period of limitation in suits in Supreme Courts, by mortgagee to recover immoveable property mortgaged.
7. Computation of period of limitation in suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.
8. Computation of period of limitation in suits between merchants for balances of accounts current.
9. Computation of period of limitation in case of concealed fraud.
10. Computation of period of limitation in suits where the cause of action is founded on fraud.
11. Computation of period of limitation in case of legal disability.
12. What persons to be deemed to be under legal disability.
13. Computation of period of limitation in case of absence of defendant.
14. Computation of period of limitation in case of suit prosecuted bonâ fide but in wrong Court.
15. Persons dispossessed of immoveable property, otherwise than by due course of law, may recover possession notwithstanding any title that may be set up Suit for dispossession to be brought within six months. Suit to establish title not to be affected.
16. Act not to interfere with equitable jurisdiction of Supreme Courts.
17. Act not to extend to public property, nor to suits for the recovery of public claims.
18. Act not to apply to suits now pending, nor to suits instituted within two years. Suits afterwards instituted to be governed by this Act.
19. Proceedings for enforcing judgments, &c., of Supreme Courts to be taken within twelve years. Proviso as to judgments now in force.

* Modified by Acts XI, 1861, and XIV, 1862.

20. Time for enforcing execution of judgment, &c., of a Civil Court not established by Royal Charter.
21. Preceding Section not to apply to judgments, &c., in force at the time of the passing of this Act.
22. Time for execution of a summary award of Civil Court or Revenue Authority.
23. Preceding Section not to apply to summary awards in force at the passing of this Act.
24. Operation of Act. Trial of pending suits, &c., in any Non-Regulation Province or place to which the Act is extended.

An Act to provide for the Limitation of Suits.

WHEREAS it is expedient to amend and consolidate the laws relating to the Limitation of Suits; It is enacted as follows :—

Limitation of suits.

I. No suit shall be maintained in any Court of Judicature within any part of the British territories in India in which this Act shall be in force, unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature, any Law or Regulation to the contrary notwithstanding; and the periods of limitation, and the suits to which the same respectively shall be applicable, shall be the following, that is to say :—

Suits to enforce right of pre-emption.

1. To suits to enforce the right of pre-emption, whether the same is founded on law or general usage or on special contract, the period of one year, to be computed from the time at which the purchaser shall have taken possession under the sale impeached.

Suits for penalties, damages and wages; certain summary suits in Madras.

2. To suits for pecuniary penalties or forfeitures for the breach of any Law or Regulation; to suits for damages for injury to the person and personal property, or the reputation; to suits for damages for the infringement of copyright or of any exclusive privilege; to suits to recover the wages of servants, artizans, or laborers, the amount of tavern bills or bills for board and lodging or lodging only; and to summary suits before the Revenue authorities under Regulation V. 1822 of the Madras Code—the period of one year from the time the cause of action arose.

Suits to set aside sales.

3. To suits to set aside the sale of any property, moveable or immoveable, sold under an execution of a decree of any Civil Court not established by Royal Charter when such suit is maintainable; to suits to set aside the sale of any property, moveable or immoveable, for arrears of Government Revenue or other demand recoverable in like manner; to suits by a Putneedar or the proprietor of any other intermediate tenure saleable for current arrears of rent, or other person claiming under him, to set aside the sale of any Putnee Talook or such other tenure sold for current arrears of rent; to suits to set aside the sale of any property, moveable or immoveable, sold in pursuance of any decree or order of a Collector or other Officer of Revenue—the period of one year from the date at which such sale was confirmed, or would otherwise have become final and conclusive, if no such suit had been brought.

Suits to set aside certain proceedings for arrears of the Government Revenue.

4. To suits to set aside any attachment, lease, or transfer of any land or interest in land by the Revenue Anthorities for arrears of Government Revenue, or to recover any money paid under protest in satisfaction of any claim made by the Revenue Authorities on account of arrears of revenue or demands recoverable as arrears of revenue—one year from the date of such attachment, lease, or transfer, or of such payment as the case may be.

Suits to alter summary orders of Mofussil Civil Courts.

5. To suits to alter or set aside summary decisions and orders of any of the Civil Courts not established by Royal Charter, when such suit is maintainable —the period of one year from the date of the final decision, award, or order in the case.

Suits to contest certain awards.

6. To suits brought by any person to contest the justice of an award which shall have been made under Regulation VII. 1822, Regulation IX 1825, and Regulation IX. 1833 of the Bengal Code, or to recover any property comprised in such award—the period of three years from the date of the final award or order in the case.

Suits to set aside orders made under Acts XVI. 1828, and IV, 1840.

7. To suits by any party bound by any order respecting the possession of property made under Clause 2 Section I Act XVI of 1838, or Act IV of 1840, or any person claiming under such party, for the recovery of the property comprised in such order—the period of three years from the date of the final order in the case.

Suits to recover hire of animals, &c., and amounts of bills or rents.

8.* To suits to recover the hire of animals, vehicles, boats, or household furniture; or the amount of bills for any articles sold by retail; and to all suits

* Not to apply to suits instituted before the 1st January 1865 in which the cause of action arose before the passing of this Act. *See* Act XIV. of 1862.

for the rents of any buildings or lands (other than summary suits before the Revenue authorities under Regulation V. 1822 of the Madras Code)—the period of three years from the time the cause of action arose.

Suits for breach of contract, or for money lent or interest where there is no written contract.

9. The suits brought to recover money lent or interest or for the breach of any contract—the period of three years from the time when the debt became due or when the breach of contract in respect of which the suit is brought first took place, unless there is a written engagement to pay the money lent or interest, or a contract in writing, signed by the party to be bound thereby or by his duly authorized agent.

Suits for breach of contract, or money lent, or interest, where there is a written engagement.

10. To suits brought to recover money lent or interest or for the breach of any contract, in cases in which there is a written engagement or contract, and in which such engagement or contract could have been registered by virtue of any Law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due or when the breach of contract in respect of which the action is brought first took place, unless such engagement or contract shall have been registered within six months from the date thereof.*

Suits upon matters of record or specialties, or for legacies.

11. To suits, in cases governed by English law, upon all debts and obligations of record and specialties; and to suits for the recovery of any legacy—the period of twelve years from the time the cause of action arose.

Suits for immoveable property or any interest therein.

12. To suits for the recovery of immoveable property, or of any interest in immoveable property, to which no other provision of this Act applies—the period of twelve years from the time the cause of action arose.

Suits for maintenance or for right to share in joint family property.

13. To suits to enforce the right to share in any property moveable or immoveable on the ground that it is joint family property; and to suits for the recovery of maintenance, where the right to receive such maintenance is a charge on the inheritance of any estate—the period of twelve years from the death of the persons from whom the property alleged to be joint is said to have descended, or on whose estate the maintenance is alleged to be a charge; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or on account of such maintenance as the case may be.

Suits for resumption or assessment.

14. To suits by the proprietor of any land or by any person claiming under him, for the resumption or assessment of any Lakheraj or rent-free land—the period of twelve years from the time when the title of the person claiming the right to resume and assess such lands, or of some person under whom he claims, first accrued. Provided that, in estates permanently settled, no such suit, although brought within twelve years from the time when the title of such person first accrued, shall be maintained, if it is shown that the land has been held Lakheraj or rent-free from the period of the permanent settlement.

Proviso.

Suits against depositaries, pawnees and mortgagees.

15. To suits against a depositary, pawnee or mortgagee of any property moveable or immoveable for the recovery of the same—a period of thirty years if the property be moveable, and sixty years if it be immoveable, from the time of the deposit, pawn, or mortgage; or if in the mean time an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption, shall have been given in writing signed by the depositary, pawnee or mortgagee or some person claiming under him, from the date of such acknowledgment in writing.

Suits not provided for otherwise.

16. To all suits for which no other limitation is hereby expressly provided—the period of six years from the time the cause of action arose.

Suits against trustees and their representatives for breach of trust, &c.

II. No suit against a trustee in his lifetime, and no suits against his representatives for the purpose of following in their hands the specific property which is the subject of the trust, shall be barred by any length of time; but no suit to make good the loss occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts, unless the same is instituted within the proper period of limitation according to the last preceding Section, to be computed from the decease of such trustee; Provided, that nothing herein contained shall prevent a co-trustee from enforcing, against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Proviso.

Shorter periods of limitation, if prescribed by particular Acts, to prevail.

III. When, by any law now or hereafter to be in force, a shorter period of limitation than that prescribed by this Act is specially prescribed for the institution of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

Revival of rigt to sue by admission in writing.

IV. If, in respect of any legacy or debt, the person who, but for the law of limitation, would be liable to pay the same, shall have admitted that such debt or legacy or any part thereof is due, by an acknowledgment in writing signed by

* See Act XX. of 1866.

him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission; Provided that, if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Proviso.

V. In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bonâ fide* and for valuable consideration from a trustee, depositary, pawnee, or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase. Provided that, in the case of purchase from a depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 15 Section I.

Suits to recover property purchased from depositaries, pawnees, or mortgagees. Proviso.

VI. In suits in the Courts established by Royal Charter by a mortgagee to recover from the mortgagor the possession of the immoveable property mortgaged, the cause of action shall be deemed to have arisen from the latest date at which any portion of principal money or interest was paid on account of such mortgage debt.

Suits in Supreme Courts, by mortgagee to recover immoveable property mortgaged.

VII. In suits to avoid incumbrances or under-tenures in an estate sold for arrears of Government Revenue due from such estate, or in a Putnee Talook or other saleable tenure sold for arrears of rent which by virtue of such sale becomes freed from incumbrances and under-tenures, the cause of action shall be deemed to have arisen at the time when the sale of the estate, talook, or tenure became final and conclusive.

Suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.

VIII. In suits for balances of accounts current between merchants and traders who have had mutual dealings, the cause of action shall be deemed to have arisen at, and the period of limitation shall be computed from, the close of the year in the accounts of which there is the last item admitted or proved indicating the continuance of mutual dealings; such year to be reckoned as the same is reckoned in the accounts.

Suits between merchants for balances of accounts current.

IX. If any person entitled to a right of action shall by means of fraud have been kept from the knowledge of his having such right or of the title upon which it is founded, or if any document necessary for establishing such right shall have been fraudulently concealed, the time limited for commencing the action against the person guilty of the fraud or accessary thereto, or against any person claiming through him otherwise than in good faith and for a valuable consideration, shall be reckoned from the time when the fraud first became known to the person injuriously affected by it, or when he first had the means of producing or compelling the production of the concealed document.

Cases of concealed fraud.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

Suits where the cause of action is founded on fraud.

XI. If, at the time when the right to bring an action first accrues, the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause of action accrued, unless such time shall exceed the period of three years, in which case the suit shall be commenced within three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

Cases of legal disablity.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

What persons to be deemed under legal disability.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the British territories in India shall be excluded from such computation, unless service of a summons to appear and answer in the suit can, during the absence of such defendant, be made in any mode prescribed by law.

Computation in case of absence of defendant from India.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents, *bonâ fide* and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal, shall have been annulled for any such cause, including the time during which such appeal, if any has been pending, shall be excluded from such computation.

Suit prosecuted bona fide, but in wrong Court.

Suit for dispossession of immoveable property otherwise than by due course of law, to be brought within six months. Suit to establish title not to be affected.

XV. If any person shall without his consent have been dispossessed of any immoveable property otherwise than by due course of law, such person or any person claiming through him shall, in a suit brought to recover possession of such property, be entitled to recover possession thereof notwithstanding any other title that may be set up in such suit, provided that the suit be commenced within six months from the time of such dispossession. But nothing in this Section shall bar the person from whom such possession shall have been so recovered, or any other person, instituting a suit to establish his title to such property and to recover possession thereof within the period limited by this Act.

Act not to interfere with equitable jurisdiction of Supreme Courts.

XVI. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of any Court established by Royal Charter in refusing equitable relief, on the ground of acquiescence or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

Act not to extend to public property, nor to suits for the recovery of public claims.

XVII. This Act shall not extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever, but such suits shall continue to be governed by the laws or rules of limitation now in force

Act not to apply to suits now pending or to suits instituted within two years.

XVIII. All suits that may be now pending, or that shall be instituted within the period of two years from the date of the passing of this Act, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted after the expiration of the said period shall be governed by this Act and no other law of limitation, any Statute Act or Regulation now in in force notwithstanding.

Proceedings for enforcing judgments, &c., of Supreme Courts to be taken within twelve years. Proviso, as to judgments now in force.

XIX. No proceeding shall be taken to enforce any judgment, decree, or order of any Court established by Royal Charter, but within twelve years next after a present right to enforce the same shall have accrued to some persons capable of releasing the same; unless in the meantime such judgment, decree, or order shall have been duly revived, or some part of the principal money secured by such judgment, decree, or order or some interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable or his agent to the person entitled thereto or his agent; and in any such case no proceeding shall be brought to enforce the said judgment, decree, or order, but within twelve years after such revivor, payment, or acknowledgment, or the latest of such revivors, payments, or acknowledgments as the case may be: Provided that, for three years next after the passing of this Act, every judgment, decree, and order which may be in force at the date of the passing of this Act shall be governed by the law now in force, anything therein contained notwithstanding.

Time for enforcing execution of judgment, &c., of a Civil Court in the Mofussil.

XX. No process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree, or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree, or order or to keep the same in force within three years next preceding the application for such execution.

Preceding Section not to apply to judgments, &c., already in force.

XXI. Nothing in the preceding Section shall apply to any judgment, decree or order in force at the time of the passing of this Act, but process of execution may be issued, either within the time now limited by law for issuing process of execution thereon, or within three years next after the passing of this Act, whichever shall first expire.

Time for execution of a summary award of Civil Court or Revenue Authority.

XXII. No process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter or of any Revenue Authority, unless some proceeding shall have been taken to enforce such decision or award or to keep the same in force within one year next preceding the application for such execution.

Preceding Section not to apply to summary awards already in force.

XXIII. Nothing in the preceding Section shall apply to any summary decision or award in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon, or within two years next after the passing of this Act, whichever shall first expire.

Operation of Act. Trial of pending suits, &c., in any Non-Regulation Province or place to which the Act is extended.

XXIV. This Act shall take effect throughout the Presidencies of Bengal, Madras, and Bombay, including the Presidency Towns and the Straits' Settlement; but shall not take effect in any Non-Regulation Province or place until the same shall be extended thereto by public notification by the Governor-General in Council or by the local Government to which such Province or place is subordinate. Whenever this Act shall be extended to any Non-Regulation Province or place by the Governer-General in Council or by the local Government to which such Province or place is subordinate, all suits which within such Province or place shall be pending at the date of such notification or shall be instituted within the period of two years from the date thereof, shall be tried and determined as if

this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted within such Province or place after the expiration of the said period, shall be governed by this Act and by no other law of limitation, any Statute, Act or Regulation now in force notwithstanding.

ACT No. XV. OF 1859.

(Received the assent of the Governor-General on the 17th May 1859.)

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1. Inventor may petition for leave to file specification. Form, &c., of petition.

2. Order to file specification.

3. Power to refer petition for enquiry and report.

4. Petitioner entitled to exclusive privilege for 14 years from the time of filing specification. Extension of term of exclusive privilege.

5. Order to file specification may be made subject to conditions.

6. Specification to be in writing and to describe the invention.

7. Petition and specification to be left with Secretary to Government. Petition, &c., to be accompanied by declaration. Date of delivery to be endorsed on petition.

8. False statement in declaration punishable as perjury.

9. Specification not to be filed before payment of fees.

10. Copies of specification to be delivered and distributed. To be open to inspection.

11. Book for the registry of petitions, specifications, &c.

12. Inspection of registry book. Certified copy of entry to be given.

13. Certified copy to be primâ facie evidence.

14. In what cases petitioner may apply for leave to file amended specification. Effect of amended specification.

15. No person entitled to exclusive privilege in any of the following cases. If invention of no utility. If invention not new. If petitioner is not inventor. If specification does not describe the invention. If petition contain wilful or fraudulent mis-statement.

16. Exclusive privilege to cease, if Government declare it mischievous, &c., to the public. Or if Government, upon breach of condition proved, declare that it shall cease.

17. Importer of invention, if not the actual inventor, not to be deemed inventor.

18. Foreign inventor.

19. An invention not publicly used or known in the United Kingdom or in India before the application for leave to file a specification, to be deemed a new invention within this Act. Knowledge of invention fraudulently acquired. Proviso. Public use by inventor.

20. Inventor, having obtained English Letters Patent, to petition within 12 months from the passing of this Act or from the date of the Letters Patent. Invention, if not publicly known or used in India at the time of applying for such Letters Patent, to be deemed new. What to be stated in such Petition. Duration of exclusive privilege.

21. Saving of rights of persons who used invention before 7th of July 1855.

22. Action for infringement.

23. Defect in specification or petition, or want of novelty in invention, &c., no defence to action for infringement. The actual use of an invention in India or the United Kingdom before date of petition, a defence to such action.

24. Application to Supreme Courts to declare exclusive privilege not to have been acquired on following grounds—Invention of no utility. Invention not new. Petitioner not the inventor. Invention not described is specification. Fraud in petition or specification. Fraudulent mis-statement in petition or specification. Insufficient description of part of invention in specification.

25. Like application as to part of an invention.

26. Application by the Advocate General on breach of special condition.

27. Service of proceedings on all persons interested.

28. Supreme Court may direct issue for trial to other Courts. New trial.

29. *Judgment. Costs.*
30. *Amendment of specification by Court. Proviso.*
31. *Mis-statement in the petition, if not fraudulent, not to defeat the privilege.*
32. *Entry in registry book of judgment, &c., declaring privilege not to have been acquired.*
33. *In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.*
34. *Particulars to be delivered.*
35. *Service of proceedings.*
36. *Act VI of* 1856 *to have effect in respect of certain specifications filed and acts done.*
37. *Stamps on petition.*
38. *Interpretation. Number. Gender. "Invention." "Manufacture." "Printed." "Inventor" and "actual inventor." "Assigns." "India." "Governor-General in Council." "Secretary to the Government of India." Her Majesty's Courts of Judicature." "Courts of Judicature."*

An Act for granting exclusive privileges to Inventors.

WHEREAS Act VI of 1856, entitled "An Act for granting exclusive privileges to Inventors," was passed by the Legislative Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India:" and whereas, Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI of 1856 without previously obtaining the sanction of the Crown, and the Court of Directors of the East India Company having in pursuance of the power vested in them by law disallowed Act VI of 1856, and having signified to the Governor-General of India in Council their disallowance thereof, the said Act was repealed by Act IX of 1857; and whereas it is expedient, for the encouragement of Inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive privileges obtained under the said Act should be protected: It is enacted as follows (The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of the said Statute):—

Inventor may petition for leave to file specification. Form &c., of petition.

I. The inventor of any new manufacture may petition the Governor-General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the Schedule hereunto annexed, and shall be signed by the petitioner, or in case the petitioner shall be absent from India, by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

Order to file specification.

II. Upon such petition, the Governor-General of India in Council may make an order authorizing the petitioner to file a specification of the invention.

Power to refer petition for enquiry and report.

III. Before making such order, the Governor-General of India in Council may refer the petition to any person or persons for enquiry and report, and such person or persons shall be entitled to a resonable fee for such enquiry and report to be paid by the petitioner; the amount of such fee, in case of dispute, to be settled by a Judge of one of Her Majesty's Courts of Judicature in a summary manner.

Petitioner entitled to exclusive privilege for 14 years from the time of filing specification. Extension of term.

IV. If, within the space of six calendar months from the date of such order, the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any), not exceeding fourteen years from the expiration of the first fourteen years, as the Governor-General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

Order may be made subject to conditions.

V. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor-General of India in Council may think expedient.

Specification to be in writing and to describe the invention.

VI. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed.

VII. Every petition for leave to file a specification, and every specification filed under this Act, shall be left with the Secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing signed by the petitioner in the forms or to the effect mentioned in the Schedule hereunto annexed; and, if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form or to the effect mentioned in the said Schedule. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded at the office of the said Secretary.

Petition and specification to be left with Secretary to Government, accompanied by a declaration. Date of delivery to be endorsed.

VIII. If any person, who shall make a declaration under this Act, shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

False statement in declaration punishable as perjury.

IX. No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for enquiry and report.

Specification not to be filed before payment of fees.

X. At the time of delivering the specification for the purpose of being filed the petitioner shall cause to be delivered to the said Secretary five copies thereof, of which

One shall be sent to and filed by one of the Secretaries to the Government of Bengal;

One shall be sent to and filed by one of the Secretaries to the Governmet of Fort St. George;

One shall be sent to and filed by one of the Secretaries to the Government of Bombay; and

One shall be sent to and filed by one of the Secretaries to the Government of the North-Western Provinces.

A copy of such specification shall be open at all reasonable times at the Office of each of the said Secretaries to public inspection upon payment of a fee of one Rupee.

Copies of specification to be delivered and distributed. To be open to inspection.

XI. A book shall be kept in the office of the said Secretary to the Government of India, wherein shall be entered and recorded every such petition and specification and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum or amended specification which shall be filed under the provisions of Section XIV.

Book for the registry of petitions, specifications, &c.

XII. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one Rupee; and the said Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

Inspection of registry book. Certified copy of entry to be given.

XIII. Every such certified copy shall be *primâ facie* evidence of the document of which it purports to be a copy.

Certified copy to be prima facie evidence.

XIV. If, after the filing of the specification, the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any misstatement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor-General in Council for leave to file a memorandum pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and, if he be absent from India, by his agent, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor-General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of Sections X, XI, XII, and XIII, applicable to specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this Section. An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed, provided that

In what cases petitioner may apply for leave to file amended specification. Effect of amended specification.

nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

No person entitled to exclusive privilege in certain cases.

XV. No person shall be entitled to any exclusive privilege under the provisions of this Act—

If the invention is of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Act, or

If the petitioner is not the inventor thereof, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention and in what manner the same is to be performed, or

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a wilful or fraudulent mis-statement.

Exclusive privilege when to cease.

XVI. Every exclusive privilege under this Act shall cease, if the Governor-General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's Courts of Judicature, and if the Governor-General of India in Council shall thereupon declare that such exclusive privilege shall cease.

Importer, if not the actual inventor, not to be deemed inventor.

XVII. The Importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

Foreign inventor.

XVIII. A foreigner, whether resident abroad or not, may petition for leave to file specification under this Act.

What to be deemed a new invention. Knowledge of invention fraudulently acquired. Proviso. Public use by inventor.

XIX. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication either printed or written or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this Section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor or in breach of confidence; Provided the inventor shall, within six calendar months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

Inventor having obtained English Letters Patent, to petition within 12 months from the date thereof. Invention, if not publicly known or used in India at the time of applying for such Letters Patent, to be deemed new. Duration of exclusive privilege.

XX. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in the United Kingdom or any part thereof shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such Letters Patent, petition the Governor-General of India in Council for leave to file a specification of such invention (which petition shall be in writing in the form or to the effect mentioned in the Schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for *such Letters Patent*, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification; Provided the petition for leave to file the specification shall state that such Letters Patent have been granted, and shall also state the date thereof and the term during which the same are to continue in force. Provided also that an exclusive privilege obtained under the provisions of this Act, by an inventor who has obtained Her Majesty's Letters Patent for the exclusive use of such invention, shall cease to have effect, if such Letters Patent be revoked or cancelled; and that no such exclusive privilege shall extend beyond the term granted by such Letters Patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

Saving of rights of persons who used invention before 7th July 1855.

XXI. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention who, prior to the 7th day of July 1855, used the same in India.

XXII. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted by this Act, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any Court other than the principal Court of original jurisdiction in Civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

Action for infringement of exclusive privilege.

Proviso.

XXIII. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained a right from him to use the invention, either wholly or in part. Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom, the invention, or that part of it of which the infringement shall be proved; but not otherwise.

Defect in specification or petition, or want of novelty in invention &c., no defence to action for infringement. The actual use of an invention in India or the United Kingdom before date of petition, a defence to such action.

XXIV. It shall be lawful for any person to apply by motion to any of Her Majesty's Courts of Judicature for a rule to show cause, why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule), that is to say—

Application may be made to Supreme Courts to declare exclusive privilege not to have been acquired on certain specified grounds.

That the said invention is of no utility, or

That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor thereof, or

That the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed, or

That the petitioner has knowingly or fraudulently included in the petition or specification or amended specification, as part of his invention, something which was not knew or whereof he was not the inventor, or

That the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or

That some part of the invention, or the manner in which that part is to be performed as described in the spicification filed or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

XXV. Any person may, in like manner, apply to any of Her Majesty's Courts of Judicature for a rule to show cause, why the Court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention, to be specified in the rule, by reason of all or any of the objections following (to be specified in the rule) that is to say—

Like application as to part of an invention.

That such part of the invention is wholly distinct from the other part thereof and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

XXVI. It shall be lawful for the Advocate General at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor-General in Council, to apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor-General in Council under the power hereinbefore reserved may, in the judgment of the said Governor-General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor-General

Application by Advocate General on breach of special condition.

in Council. The Costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

Notice of proceedings to be served on all persons interested.

XXVII. Notice of any rule obtained or proceeding taken under either of the last three preceding Sections shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of Section XXXV of this Act, and it shall not be necessary to serve such notice on any other persons.

Supreme Court may direct issue for trial to other Courts.

XXVIII. Any of the said Courts of Judicature, if it think fit, may direct an issue for the trial, before the same Court or any other Court of Judicature or any principal Court of original jurisdiction, in Civil cases, of any question of fact arising upon an application under Sections XXIV, XXV, or XXVI of this Act, and such issue shall be tried accordingly in a summary manner, and, if the issue be directed to another Court, the finding shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Court of Judicature, the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue, or direct a new trial if it shall appear necessary.

New trial.

Judgment Costs.

XXIX. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of Sections XXIV or XXV of this Act, that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just: and thereupon the petitioner, his executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

Amendment of specification of Court.

XXX. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification or amended specification (if any,) included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency, or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order. Provided, that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

Proviso.

Mis-statement, if not fraudulent, not to defeat the privilege.

XXXI. An exclusive privilege shall no be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was wilful or fraudulent.

Judgment, etc., declaring privilege not to have been acquired, to be entered in registry book.

XXXII. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said Secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

XXXIII. If, upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove, to the satisfaction of the principal Court having jurisdiction in Civil cases within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act, and to account for and pay over the profits thereof.

XXXIV. In any action for the infringement of such exclusive privilege, the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said Courts of Judicature under Sections XXIV, XXV, or XXVI of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always, that it shall be lawful for any Court in which the action or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

Particulars to be delivered.

Proviso.

XXXV. A book shall be kept in the office of the Secretary to the Government of India in the Home Department (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India, where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification, and may from time to time cause any other place in India to be substituted by a similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place: or, if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by Post by a registered letter directed to such person at such place; and if any such person shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court-house, or in such other manner as the Court may direct.

Service of proceedings.

XXXVI. Act VI of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of every thing done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India," and as if the said Act had not been repealed; and the term of every exclusive privilege obtained under the said Act is hereby extended, and shall continue until the expiration of fourteen years from the time of the passing of this Act. No exclusive privilege obtained under the said Act by an importer, not being the actual inventor, shall cease to have effect by virtue of the provisions of Section XVI of the said Act, if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

Act VI of 1856 to have effect in respect of certain specifications filed and acts done.

XXXVII. Repealed by Act XVIII. of 1869.

XXXVIII. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "invention" shall include an improvement.

The words "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

The word "printed" shall include "lithographed."

The words "inventor" and "actual inventor" shall include the executors administrators, or assigns of an inventor or actual inventor as the case may be.

The word "assigns" shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time.

Interpretation Number. Gender "Invention" "Manufacture." "Printed." Inventor" and "actual inventor." "Assigns" "India." "Governor-General in Council." "Secretary to the Government of India." "Her Majesty's Courts of Judicature." "Courts of Judicature.

The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

The words "Governor-General in Council" shall include the "President in Council."

The words "Secretary to the Government of India" shall include any Under-Secretary to the said Government.

The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

SCHEDULE OF FORMS

FORM OF PETITION—*(see Section 1.)*

TO THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

The petition of (*here insert name, addition, and place of residence*) for leave to file a specification under Act No. XV of 1859.

SHEWETH,

That your petitioner is in possession of an invention for (*state the title of the invention*) which invention he believes will be of public utility; that he is the inventor thereof (*or, as the case may be, the assignee or the executor or administrator of the inventor*); and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of his knowledge and belief.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV of 1859.

And your petitioner, &c.

(Signed)———

The day of

FORM OF DECLARATION TO ACCOMPANY PETITION—*(see Section VII.*

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the title of the invention as in the petition*); that I believe the said invention will be of public utility; that I am the inventor thereof (*or, as the case may be, the assignee or executor or administrator of the inventor*) and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of my knowledge and belief; and that, to the best of my knowledge and belief my said invention is truly described in my petition for leave to file a specification thereof.

The day of

(Signed)———

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION—*(see Section VII.)*

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the nature of the invention,*) which invention I believe will be of public utility; that I am the inventor thereof (*or, as the case may be, the assignee or executor or administrator of the inventor*) and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of my knowledge and belief, and that to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention and in what manner the same is to be performed.

The day of

(Signed)———

FORM OF DECLARATION BY AN AGENT WHERE AN INVENTOR IS ABSENT FROM INDIA—*(see Section VII.)*

I of do solemnly and sincerely declare that I have been appointed by the said his agent for the purpose of ; and I verily believe that the declaration purporting to be the declaration of the said

marked ( ) was signed by him, and that the contents thereof are true.

The day of

(Signed)———

FORM OF PETITION—(*see Section XX.*)

That your petitioner (*or, as the case may be, that A. B. of whom your petitioner is the assignee or executor or administrator*) has obtained Her Majesty's Letters Patent dated the day of for (*state the title of the invention*), and that such Letters Patent are to continue in force for years. That your petitioner believes that the said invention is not now, and has not hitherto been, publicly known or used in India.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV. of 1859.

And your petitioner, &c.

(Signed)———

The day of

ACT No. XVIII OF 1859.

(*Received the assent of the Governor-General on the 25th July 1859.*)

1. British subjects how punishable for offences, which are by law made punishable in the Mofussil upon conviction by a Magistrate.

2. When such offences are committed within the local limits of the jurisdiction of Her Majesty's Courts.

3. Jurisdiction expressly given to Justice of the Peace not to be affected.

4. Construction of the word "Magistrate" in certain Acts.

An Act to amend the law relating to offences declared to be punishable on conviction before a Magistrate.

WHEREAS it is expedient to amend the law relating to offences declared to be punishable on conviction before a Magistrate; It is enacted as follows:—

British subjects how punishable for offences punishable in the Mofussil upon conviction by a Magistrate.

I. If any offence, which by any Act of the Governor-General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender, if not otherwise punishable, shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

When such offences are committed within the local limits of the jurisdiction of Supreme Courts.

II. If any offence, which by any Act of the Governor-General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, the offender, if not otherwise punishable, shall be liable upon conviction before such Court to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

Jurisdiction expressly given to Justice of the Peace not to be affected.

III. Nothing in this Act shall extend to any case in which jurisdiction is expressly given to a Justice of the Peace to convict the offender.

Construction of the word "Magistrate" in certain Acts.

IV. Whenever, in any Act heretofore passed by the Governor-General in Council, the word "Magistrate" is declared to include a Justice of the Peace, such Justice of the Peace shall not by virtue of such Act be deemed to have jurisdiction to punish any offence, unless the same shall be committed within the local limits of the jurisdiction of any of the Courts of Judicature established by Royal Charter.

ACT No. XXV. OF 1859.*

(Received the assent of the Governor-General on the 14th December 1859.)

1. Number of Native Passengers to be carried in unlicensed Vessels.
2. Number of Native Passengers to be carried in licensed Vessels. Two exceptions.
3. Penalty on Master of unlicensed Vessel for infringement of the above provisions.
4. Penalty on Master of licensed Vessel.
5. Government to appoint Ports for shipment of Passengers when the number of Passengers to be carried is greater than one to every four tons of burden.
6. Grant of licenses to Vessels.
7. Certain licensed Passenger Vessels to carry provisions according to appointed scale.
8. Penalty for omitting to supply Passengers with prescribed allowance of food and water.
9. Supply of provisions on board Passenger Ships plying to and from Ceylon, &c.
10. List of Passengers to be signed by Master. Additional Passengers.
11. Penalty for bringing Native Passengers into any Port on the Eastern Coast of the Bay of Bengal from any Foreign European Settlement in excess of authorized proportion.
12. Penalty for impeding entry or inspection.
13. Penalty on landing Passenger at a place other than that at which he has contracted to land.
14. Passenger's right of action preserved.
15. Adjudication of offences and recovery of penalties. Sum ordered to be paid leviable by distress on Ship.
16. Jurisdiction.
17. Application of penalties.
18. Interpretation. "Magistrate." "Local Government."
19. Commencement of Act.

An Act to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal.

WHEREAS it is necessary to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal; It is enacted as follows :—

Number of Native Passengers to be carried in unlicensed Vessels.

I. No vessel shall carry Native Passengers from any port or place under the Presidency of Fort St. George or from Chittagong or from any port in the Province of Orissa, to any port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca or in Ceylon; or from any port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, to any port or place under the Presidency of Fort St. George, or to Chittagong, or to any port in the Province of Orissa, in a proportion greater than one Passenger to every four tons of the burden of such vessel, without a license.

Number of Native Passengers to be carried in licensed Vessels.

First exception.

Second exception.

II. No vessel shall be licensed to carry Passengers on any such voyage as aforesaid, in a proportion greater than one Passenger to every ton of burden, nor unless the Vessel has space on a deck or platform under hatches reserved for the accommodation of the Passengers in the proportion of six superficial feet for every Passenger, with not less than five feet clear between the upper deck and the lower deck or platform : except a vessel proceeding in ballast from any part of the Coast of the Gulf of Manar or Palks' Strait to any port or place in Ceylon, which may be licensed to carry a number of Passengers not exceeding the proportion of tow and a half to every ton of her burden, provided that the whole of the space, usually allotted for cargo and not occupied by ballast, be kept for the accommodation of the Passengers, and for storing the provisions and water for their use, and that the space left clear for the accommodation of the Passengers on the deck or decks of the Vessel be not less than four superficial feet for each Passenger : and except a vessel carrying Native Passengers between Chittagong and any Port or place on the Coast of Arracan, which may be licensed to carry a number of Passengers not exceeding the proportion of two and a half to every ton of her burden, subject to such regulations as the Government of Bengal may prescribe.

Penalty on Master unlicensed Vessel.

III. The Master or Tindal of any vessel which shall carry Native Passengers on any such voyage as aforesaid, without a license, in a proportion exceeding that laid down in Section I, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of such proportion.

* See Act XII of 1870.

IV. The Master or Tindal of any licensed vessel which shall carry on any such voyage a greater number of Passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of such number, or for each Passenger who is not provided with accommodation agreeably to the license.

Penalty on Master of licensed Vessel.

V. Passengers in a greater number than one Passenger to every four tons of the burden of any vessel, shall not be shipped from the territories under the Government of Fort St. George or from the Province of Orissa, for Ceylon or the Eastern Coast of the Bay of Bengal or the Straits of Malacca; or from the Eastern Coast of the Bay of Bengal or the Straits of Malacca, for the said Territories or Province or for Chittagong, except from such ports as shall be from time to time appointed by the local Government by an Order published in the Government Gazette and in the Straits Settlement in such manner as the Governor shall notify; and the Master or Tindal of any vessel who shall take on board Passengers for such voyage from any other port or place in a greater proportion to the burden of the vessel than is above-mentioned, shall be liable to a fine not exceeding Twenty Rupees for each Passenger embarked.

Government to appoint Ports for Shipment of Passengers when the number of Passengers to be carried is greater than one to every four tons of burden.

VI. It shall be at the discretion of the Collectors of Sea Customs for the ports appointed for shipping Native Passengers, or such other persons as the local Government may from time to time appoint for the purpose, to grant licenses to vessels under this Act. Provided, that such licenses shall not be granted, except for vessels within the exceptions in Section II, till the vessels have been surveyed according to such directions as shall be given from time to time by the local Government. The license shall describe the vessel, her tonnage, and rig; the number of her boats, anchors, and cables; and what instruments for the purpose of navigation she is supplied with; also the name of the owner and of the Master or Tindal and the number and composition of the crew; and shall specify the number of passengers she may carry and the space to be assigned for their accommodation.

Grant of licenses to Vessels.

Proviso.

VII. The Master or Tindal of any vessel licensed to carry Passengers from any port in the territories under the Government of Fort St. George or from Chittagong or from any port in the Province of Orissa, to any port or place on the Eastern Coast of the Bay of Bengal or the Straits of Malacca; or from any port on the Eastern Coast of the Bay of Bengal or the Straits of Malacca, to any port or place in the territories under the Government of Fort St. George, or to Chittagong, or to any port in the Province of Orissa; which shall proceed on such voyage not being furnished with provisions and water according to such scale as shall be laid down from time to time by an order of the local Government published in the Government Gazette and in the Straits Settlement in such manner as the Governor shall notify, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of the number fully supplied with provisions and water according to such scale.

Certain licensed Passenger Vessels to carry provisions according to appointed scale.

VIII. The Master or Tindal of any vessel licensed to carry Passengers as aforesaid, who shall wilfully and without satisfactory excuse omit to supply to every Passenger the prescribed allowance of food and water, shall be liable for such omission to a fine which may extend to Twenty Rupees for every Passenger who has suffered privation thereby.

Penalty for omitting to supply Passengers with prescribed allowance of food and water.

IX. The Master or Tindal of any vessel licensed to carry Passengers from any port under the Government of Fort St. George to Ceylon, or between Chittagong and any port or place on the Coast of Arracan, who shall proceed on any such voyage without having laid in a supply of water and provisions for the Passengers according to a scale to be fixed by the Collector of Sea Customs for such port, or such other person as the local Government may from time to time appoint for the purpose, which shall be hung upat the Custom House of the Port, shall be liable to a fine not exceeding One Hundred Rupees.

Supply of provisions on board Passenger Ships plying to and from Ceylon, &c.

X. The Master or Tindal of any vessel licensed to carry Passengers as hereinbefore provided shall sign and deliver in duplicate to the principal Officer of Customs at the place of embarkation, or such other person as the local Government may from time to time appoint for the purpose, a list, according to the form annexed to this Act, of all Passengers to be conveyed in such vessel; and such Officer, after satisfying himself of the correctness of the same, and that the number of Passengers authorized is not exceeded, shall countersign and return one such list to the Master or Tindal, to be produced to the proper Officer at the port to which the vessel is bound; and should any additional Passengers engage to proceed by such Vessel after such list has been so countersigned, the Master or Tindal may insert their names in the original list obtaining the sigature of the

List of Passengers to be signed by Master. Additional Passengers.

controling Officer as before. The Officer in charge of the Customs may withhold the Port Clearance till this rule is complied with.

Penalty for bringing Native Passengers into any Port on the Eastern Coast of the Bay of Bengal from any Foreign European Settlement in excess of authorized proportion.

XI. If any vessel, bringing Native Passengers into any port or place whatsoever on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, from any Foreign European Settlement situate on the line of Coast within the limits of the Presidency of Fort Saint George, shall have on board a greater number of Passengers than in the proportion prescribed in Section I of this Act the Master or Tindal of such vessel shall be liable to a penalty of Twenty Rupees for each Passenger in excess of such proportion, unless the vessel shall have been licensed under Section VI. of this Act, and shall have complied with the stipulations as regards space, water, and provisions laid down in Section II.

Penalty for impeding entry or inspection.

XII. The principal Officer in charge of the Customs at the port of embarkation or of destination, or any person authorized by him, shall be at liberty at all times to enter and inspect any Passenger Vessel, and the fittings, provisions, and stores therein; and whoever impedes such entry or inspection, or refuses to allow of the same, shall be liable to a fine not exceeding Fifty Rupees.

Penalty on landing Passenger at a place other than that at which he has contracted to land.

XIII. If any native Passenger in any Ship shall be landed at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall for each offence be liable to a penalty not exceeding Two Hundred Rupees.

Passenger's right of action preserved.

XIV. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Adjudication of offences and recovery of penalties. Sum ordered to be paid leviable by distress on Ship.

XV. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Tindal of a ship, and the same is not paid at the time and in the manner prescribed by the order of payment. the Magistrate, may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

Jurisdiction.

XVI. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Application of penalties.

XVII. Any Magistrate imposing any penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

Interpretation. "Magistrate." "Local Government."

XVIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII of 1856, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and a Justice of the Peace.

The words "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the said territories where the port or place in question is situate.

XIX. Repealed by Act XIV. of 1870.

SCHEDULE.

FORM.

1	2	3	4	5	6	7
Name of Vessel.	Name of Master.	Tons per register.	Port of embarkation.	Numbers and names of Passengers.	Port at which Passengers have contracted to be landed.	Date of departure.

(Signed)————

Master.

(Countersigned)————,

Principal Officer of Customs.

Note.—In the case of Vessels carrying Passengers to Ceylon, or between Chittagong and any port or place on the Coast of Arracan, it will be sufficient to insert the number, and not the names, of Passengers in Column 5.

I

ACT No. XXVIII OF 1859.

(Received the assent of the Governor-General on the 26th December 1859.)

1. Act XXXIII of 1857 to continue in force for two years from 5th December 1859.

An Act to revive and continue in force for a further period Act XXXIII of 1857 (to make further provision relating to Foreigners.)

WHEREAS by Act XXXIII of 1857 ("An Act to make further provision relating to Foreigners" which received the assent of the Governor-General on the 5th December 1857), it was enacted that the said Act should continue in force for two years; and whereas it is expedient to revive and continue the said Act for a further period; It is enacted as follows:—

I. The said Act XXXIII of 1857 shall continue in force for the period of two years from the 5th day of December 1859,* and shall be deemed and taken to have had effect as if this Act had actually passed and received the assent of the Governor-General before the expiration of the said Act XXXIII of 1857.

* Continued in force for 2 years more by Act I, 1862.

ACT No. I OF 1860.

(Received the assent of the Governor-General on the 5th January 1860.)

1. *Law repealed.*
2. *Customs Duty on Salt imported into the North-Western Provinces.*
3. *Indemnity to Collectors, &c.*

An Act to empower the Governor-General in Council to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal.

WHEREAS it is expedient to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal; It is enacted as follows:—

Law repealed.

I. So much of Section II of Act XIV of 1843 *(for regulating the levy of Customs Duties, and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal)* as prescribes the levy of a duty of two Rupees per maund on the import of Salt into the said Provinces, and of a further Duty of one Rupees per maund on the transmission thereof to the Eastward of Allahabad, is hereby repealed.

Customs Duty on Salt imported into the North-Western Provinces.

II. It shall be lawful for the Governor-General in Council to order the levy, on and after the 24th day of December 1859, of a Customs Duty not exceeding three Rupees per maund on Salt imported into the North-Western Provinces of the Presidency of Bengal. A further Duty not exceeding one Rupee per maund, to be fixed by order of the Governor-General in Council, shall, on and after the said 24th day of December 1859, be leviable on the transmission of Salt to the Eastward of Allahabad.

Indemnity to Collectors, &c.

III. Every Collector of Customs and other officer is hereby indemnified for any thing done, on and after the said 24th day of December 1859, in collecting or enforcing the Duty imposed under the provisions of this Act or by virtue of any order of Government heretofore made authorizing the levy of any such Duty; or in otherwise carrying this Act into effect: and no action or other proceeding shall be maintained against any such Collector or other officer in respect of any thing so done.

ACT No. II OF 1860.

(Received the assent of the Governor-General on the 15th January 1860.)

1. *Certain provisions of the Statute made applicable.*
2. *Governors or Consuls may pay expenses of Passengers taken off a Passenger ship.*
3. *Governors or Consuls may send on Passengers, if the Master of the ship fail to do so.*
4. *Expenses incurred under the two preceding Sections to be a Crown debt. Passengers forwarded by Governor, &c. not entitled to compensation.*

An Act to amend the law relating to the Carriage of Passengers by Sea.

WHEREAS by Section XCIX of an Act of the Imperial Parliament called "The Passengers Act 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts:" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced." And whereas it is expedient to make certain parts of the

said Act of Parliament applicable to the carriage of Passengers upon the voyages hereinafter specified; It is enacted as follows:—

Certain provisions of the Statute made applicable.

I. The provisions contained in Sections II, III, and IV of this Act (being parts of the said Act of Parliament) are declared applicable to the carriage of Passengers upon the following voyages:—

Voyages from the Ports of Calcutta, Madras, and Bombay to the Mauritius, * * * *

Voyages from the Ports of Calcutta, Madras, and Bombay, to Jamaica, British Guiana, and Trinidad, * * * *

Voyages from the Ports of Calcutta, Madras, and Bombay, to St. Lucia and Grenada, * * * *

Voyage from Ports in British India, to ports in the Red Sea or Persian Gulf, under *Act XXI of 1858.**

Governors or Consuls may pay expenses of Passengers taken off a Passenger ship.

II. If the Passengers on any such voyage as is specified in the last preceding Section, shall be taken off from the ship carrying such passengers, or shall be picked up at Sea from any boat, raft or otherwise, it shall be lawful, if the Port or place to which they shall be conveyed shall be in any of Her Majesty's Colonial possessions, for the Governor of such Colony, or for any person authorized by him for the purpose, or if in any Foreign country, for Her Majesty's Consular Officer, at such Port or place therein, to defray all are any part of the expenses thereby incurred.

Governors or Consuls may send on Passengers, if the Master of the ship fail to do so.

III. If any Passenger of any such Passenger ship as aforesaid shall, without any neglect or default of his own, find himself within any Colonial or Foreign Port or place other than that at which he may have contracted to land, it shall be lawful for the Governor of such Colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at such Foreign Port or place, as the case may be, to forward such Passenger to his intended destination, unless the Master of such ship shall, within forty-eight hours of the arrival of such Passenger, give to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter such Passenger to his original destination, and unless such Master shall accordingly forward or carry him on within that period.

Expenses incurred under the two preceding Sections to be a Crown debt.

IV. All expenses incurred under the last two preceding Sections or either of them, by or by the authority of such Governor or Consular Officer as aforesaid, including the cost of maintaining the Passengers until forwarded to their destination, and of all necessary beddings, provisions, and stores, shall become a debt to Her Majesty and Her successors from the Owner, Charterer, and Master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts; and a certificate purporting to be under the hand of any such Governor or Consular Officer (as the case may be) stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be received in evidence without proof of the hand-writing or of the Official character of such Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred. Provided nevertheless, that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage money received by the Owner, Charterer, or Master of such Passenger ship or any of them, from or on account of the whole number of Passengers who may have embarked in such ship; which total amount of passage money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such Passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding Section, they shall not be entitled to the return of their passage money, or to any compensation for loss of passage.

Proviso.

Passengers forwarded by Governor &c. not entitled to compensation.

ACT No. V OF 1860.†

(Received the assent of the Governor-General on the 8th February 1860.)

1. *Appropriation of surplus fines &c.*
2. *Madras Presidency. Procedure in dealing with the offences of forcibly opposing the seizure of Cattle, or rescuing Cattle.*

* Act XII. 1870 substitutes for words italicised the native Passenger ships Act, 1870. The words omitted in this Section are repealed by Act XIV of 1870.

† The omitted Sections of this Act apply exclusively to the Madras Presidency.

3. *Madras Presidency. Heads of Police, &c. not to be deemed Officers having Criminal jurisdiction within the meaning of Section XIV Act III of 1857.*
4. *Madras Presidency. Construction of the words "Heads of Villages" in Section IV Act III of 1857.*
5. *Act to be read as part of Act III of 1857.*

An Act to amend Act III of 1857 (relating to trespasses by Cattle).

WHEREAS, under the provisions of Act III of 1857, fines may be levied from the owners of Cattle found trespassing and doing damage, or straying in any public place, and all unclaimed Cattle so found may be sold after sufficient notice; and whereas it is provided in the said Act that the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle shall be applied to the payment of the salaries of pound-keepers and other purposes connected with the execution of the Act; and whereas the amount of the said sums may be larger than is required for the said purposes, and it is expedient to provide for their legal application to other purposes; It is enacted as follows:—

Appropriation of surplus fines, &c.

I. When the amonnt of the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle is larger than is required for the payment of the salaries allowed to pound-keepers and the expenses incurred for the construction and maintenance of pounds and other purposes connected with the execution of the said Act, any surplus which may remain after making full provision for the said salaries and expenses may be applied, under the direction of the local Government, to the construction and repair of roads and bridges, and other works of a like nature.

Act to be read as part of Act III of 1857.

V. This Act shall be read with and taken as part of Act III of 1857.

ACT No. VII OF 1860.*

(Received the assent of the Governor-General on the 24th February 1860.)

1. *Laws repealed.*
2. *Existing Company, before obtaining registration under this Act, to give notice to Customers.*
3. *Limited Banking Company to furnish a statement.*
4. *Trust property.*
5. *Existing Banking Companies may register under this Act.*
6. *Registration under this Act not to affect obligations incurred previously to registration.*
7. *Saving of liabilities of persons holding shares before Registration under Act.*
8. *Continuation of existing actions and suits.*
9. *Winding-up.*
10. *Act not to apply to Banks of Bengal, Madras, or Bombay.*
11. *Construction of Act.*

An Act to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability.

WHEREAS it is expedient to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability: It is enacted as follows:—

Laws repealed.

I. So much of Section I of Act XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations, either with or without Limited Liability of the Members thereof*) as provides that nothing in that Act shall authorize any persons to form themselves into a Joint Stock Company or Association with Limited Liability for the purpose of banking; and so much of Section XCIX of the said Act as provides that no Company established for the purpose of Banking shall be registered under that Act as a Limited Company, are hereby repealed, subject to the following Proviso that no Banking Company, claiming to issue notes in India shall be entitled to Limited Liability in respect of such issue, but shall continue subject to unlimited Liability in respect thereof, and that, if necessary, the assets shall be marshalled for the benefit of the general

* See Act X 1866, Sections 191, 192 and 219 which repeals this Act with certain exceptions.

creditors, and the Shareholders shall be liable for the whole amount of the issue in addition to the sum for which they would be liable as Shareholders of a Limited Company.

Existing Company, before obtaining registration under this Act to give notice to Customers.

II. Every existing Banking Company which shall register itself as a Limited Banking Company, shall at least thirty days previously to obtaining a certificate of Registration with Limited Liability, give notice that it is intended so to register the same, to every person and partnership firm who shall have a Banking Account with the Company, and such notice shall be given either by delivering the same to such person or firm, or leaving the same or putting the same into the Post in a registered letter addressed to him or them at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company; and in case the Company shall omit to give any such notice as is hereinbefore required to be given, then as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with Limited Liability shall have no operation.

Limited Banking Company to furnish a statement.

III. Every Limited Joint Stock Banking Company shall, before it commences business, or if a Banking Company at the time carrying on business with unlimited Liability, before it avails itself of the provisions of this Act, and also on the 1st day of February and 1st day of August in every year during which it carries on business, make a statement in the form contained in the Schedule hereto annexed, or as near thereto as circumstances will admit; such statement shall be in addition to the balance sheet required by the said Act to be made out and filed with the Registrar of Joint Stock Companies: a copy of such statement shall be put up in a conspicuous place in the Registered Office of the Company, and in every branch office or place where the Banking business of the Company is carried on, and if default is made in due compliance with the provisions of this Section, each Director shall be liable to a penalty not exceeding fifty Rupees for every day during which such default continues, and such penalties shall be recovered in a summary manner.

Trust property.

IV. All such estate or interest in moveable and immoveable property, and all such deeds, bonds, obligations, and rights as may belong to, or be vested in, any person or persons in trust for any Banking Company at the date of its Registration under this Act, or in trust for any other Company at the date of its Registration under the said Act XIX of 1857, shall immediately on Registration vest in such Banking or other Company; but no merger shall take place of any estates by reason of their uniting in the Company under this Section, without the express consent of the Company, certified by some instrument under their common seal.

Existing Banks may register under this Act.

V. Any Banking Company, consisting of seven or more persons having a capital of fixed amount, and divided into shares also of fixed amount, legally carrying on the business of Banking previously to the passing of this Act, may at any time hereafter, with the assent of a majority of such of its shareholders as may have been present in person, or in cases where proxies are allowed by the regulations of the Company by proxy, at some General Meeting summoned for the purpose, register itself as a Company under this Act, and when so registered all such provisions contained in any Letters Patent or Deed of settlement constituting or regulating the Company, as are inconsistent with the said Act XIX of 1857 or with this Act, shall no longer apply to the Company so registered, but such Registration shall not take away or affect any powers previously enjoyed by such Company of banking, issuing notes payable on demand, or of doing any other thing.

Registration under this Act not to affect obligations incurred previously to registration.

VI. The Registration under this Act of any Banking Company existing at the time of the passing of this Act, and hereby authorized to be registered, shall not affect or prejudice the liability of such Company to have enforced against it or its right to enforce any debt or obligation incurred, or any contract entered into, by, to, with or on account of such Company previously to such Registration, and all such debts, obligations, and contracts shall be binding on the Company when so registered, and the other parties thereto, to the same extent as if such Registration had not taken place.

Saving of liabilities of persons holding shares before Registration under Act.

VII. Every person who, at or previously to the date of the Registration under this Act of any Banking Company hereby authorized to be registered, may have held shares in such Company shall, in the event of the same being wound-up by the Court or voluntarily, be liable to contribute to the assets of the Company the same amount that he would, if this Act had not been passed, have been liable to pay to the Company, for, or on account of any debt of the Company in

pursuance of any action, suit, judgment, or other legal proceeding that might, if this Act had not been passed, have been instituted or enforced against himself or the Company.

Continuation of existing actions and suits.

VIII. All such actions, suits, and other legal proceedings, as may at the time of the Registration under this Act of any Company hereby authorized to be registered have been commenced by or against such Company or the Public Officer thereof, may be continued in the same manner as if such Registration had not taken place; nevertheless execution shall not issue against the effects of any individual Shareholder in, or member of, such Company upon any judgment, decree, or order obtained against such Company in any action, suit, or proceeding so commenced as aforesaid; but in the event of the property and effects of the Company being insufficient to satisfy such judgment, decree, or order, an order may be obtained for winding-up the Company in manner directed by the said Act XIX of 1857.

Winding up.

IX. All Companies registered under this Act shall be wound-up in the manner directed by the said Act XIX of 1857.

Act not to apply to Banks of Bengal, Madras, or Bombay.

X. Nothing in this Act shall affect Act VI of 1839, *(relating to the Bank of Bengal)* Act III of 1840 *(for the incorporation of a Bank at Bombay)*, or Act IX of 1843 *(for the incorporation of a Bank at Madras)*, or shall be deemed to apply to the several Banks of Bengal, Madras, and Bombay incorporated by the said Acts respectively.

Construction of Act.

XI. This Act shall be deemed to be incorporated with and to form part of the said Act XIX of 1857.

SCHEDULE.

Form of Statement to be published by a Limited Joint Stock Bankinig Company.
The Liability of the Shareholders is limited.
The capital of the Company is divided into Shares of Rupees each.
The number of Shares issued is
Calls to the amount of per Share have been made, under which the sum of Rupees has been received.

The liabilities of the Company on the first day of January (or July) were—

	Rs.	As.	P.
Notes issued, ...			
Deposits not bearing Interest, ...			
Deposits bearing Interest, ...			
Seven Day and other Bills, ...			
Total,			

The assets of the Company on that day were—

	Rs.	As.	P.
Government Securities, ...			
Bills of Exchange, ...			
Loans on Mortgage, ...			
Other Loans, ...			
Bank Premises, ...			
Other Securities, exclusive of unpaid Calls on Shares, ...			
Total,			

Dated the first day of or one thousand eight hundred and

ACT No. VIII OF 1860.

(Received the assent of the Governor-General on the 12th March 1860)

1. Act repealed.

2. Governor-General in Council to have the exclusive privilege of establishing Electric Telegraphs. Proviso.

3. Penalties for establishing or maintaining unauthorized Electric Telegraphs.
4. Penalty for using or working such Telegraphs.
5. Government may take possession of Telegraphs established by license.
6. Government may establish Telegraphs on land of Railway Company.
7. Governor General in Council to frame rules for the conduct of Government Telegraphs.
8. Government not responsible for loss or damage.
9. Penalty for intruding into signal room, &c.
10. Penalties for cutting the line.
11. Penalties for omitting to transmit or deliver messages or for divulging messages, &c.
12. Penalty for offering a bribe.
13. Penalty for misconduct.
14. Penalties for sending unpaid messages.
15. Penalties for sending fabricated message.
16. Jurisdiction beyond local limits of Supreme Court.
17. Jurisdiction within local limits of Supreme Court.
18. Fines how to be adjudged.
19. Fines how levied. Imprisonment if no sufficient distress, &c.
20. Authority to punish Government Servants who commit offences against this Act in Foreign territory.
21. Explanation of terms.
22. Government to frame rules for Telegraphs established by license. And to declare Act applicable to Telegraphs established within British Territories by Foreign Powers.

An Act for regulating the establishment and management of Electric Telegraphs in India.

WHEREAS it is expedient that better provision should be made for regulating the establishment and management of lines of Electric Telegraph in India; It is enacted as follows :—

I. Repealed by Act XIV. of 1870.

II. Within the British territories in India, the Governor-General of India in Council shall have the exclusive privilege of establishing lines of Electric Telegraph. Provided, that the Governor-General of India in Council may grant a license to any person or Company to establish a line of Electric Telegraph within any part of such territories, which license shall be revocable on the breach of any of the conditions therein contained.

G. G. in C. to have exclusive privilege of establishing Electric Telegraphs.
Proviso.

III. Whoever shall otherwise than under a license duly granted as aforesaid establish, or after revocation of such license maintain, a line of Electric Telegraph within the said territories, shall be liable to a fine not exceeding One Thousand Rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding Five Hundred Rupees.

Penalties for establishing or maintaining unauthorized Electric Telegraphs.

IV. Whoever shall use a line of Electric Telegraph, knowing or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messages, or shall perform any service incidental thereto, shall for every such offence be liable to a fine not exceeding Fifty Rupees.

Penalty for using or working such Telegraphs.

V. The Governor-General of India in Council may, on the occurrence of any public emergency, take temporary possession of any line of Electric Telegraph established under license within the said territories.

Government may take possession of Telegraphs established by license.

VI. Any Railway Company, on being required so to do by the Governor-General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway a line of Electric Telegraph, and shall give every reasonable facility for establishing and using the same.

Government may establish Telegraphs on land of Railway Company.

VII. The Governor-General of India in Council may from time to time frame rules for the conduct of Electric Telegraphs established by Government not inconsistent with this Act, and therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

G. G. in C. to frame rules for the conduct of Government Telegraphs.

VIII. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

Government not responsible for loss or damage.

IX. Whoever shall, without permission, enter into the signal room of a Government Telegraph Office, or shall refuse to quit the same on being requested to do so by any officer or servant employed therein, or shall wilfully obstruct or im-

Penalty for intruding into signal room, etc.

pede any such officer or servant in the performance of his duty, shall be liable to a fine not exceeding One Hundred Rupees.

Penalties for cutting the line.

X. Whoever shall wilfully cause or attempt to cause any interruption to the transmission of signals along a line of Electric Telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line or posts or any instrument or apparatus, or by any other means, shall be liable to imprisonment, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for omitting to transmit or deliver or for divulging any messages, etc.

XI. Whoever, being in the employ of the Government in the Electric Telegraph Department, shall wilfully secrete, make away with, alter, or omit to transmit any message which he may have received for transmission or delivery, or shall wilfully or otherwise than by the Official order of a Secretary to the Government of India, or Government of Madras or Bombay, or Lieutenant-Governor of Bengal or of the North-Western Provinces, or of the Punjab, or Chief Commissioner of Oude, or such other officers as the Governor-General of India in Council shall authorize to give such order, divulge any message, or the purport of any message or signal, to any person not entitled to receive, or to become acquainted with the same—shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalty for offering a bribe.

XII. Whoever offers a bribe to any person in the employ of the Government in the Electric Telegraph Department, in order to induce such person to act in a manner inconsistent with his duty, shall be liable to be imprisoned for a term not exceeding six months, or to fine, or to both.

Penalty for any misconduct.

XIII. Whoever, being in such employ, shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or who shall loiter or make delay in the transmission or delivery of any message, shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding One Hundred Rupees, or to both.

Penalties for sending messages without payment.

XIV. Whoever, being in such employ, shall transmit by the Electric Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for sending fabricated message.

XV. Whoever shall transmit, or cause to be transmitted by an Electric Telegraph established by Government a message which he knows to be false or fabricated, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Jurisdiction beyond local limits of Supreme Court.

XVI. Any person not being a European British subject, who shall, beyond the local limits of the jurisdiction of a Court of Judicature established by Royal Charter, commit any of the offences mentioned in Sections X, XI, XII, XIII, XIV, and XV of this Act, shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed. If any such offence be committed beyond the said local limits by a European British subject, the offender shall be punishable upon conviction before a Court of Judicature established by Royal Charter.

Jurisdiction within local limits of Supreme Court.

XVII. Any person, whether a European British subject or not, who shall, within the local limits of the jurisdiction of a Court of Judicature established by Royal Charter, commit any of the offences referred to in the last preceding Section, shall be punishable upon conviction before such Court.

Fines how to be adjudged.

XVIII. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Magistrate of Police for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, within whose jurisdiction the offence shall be committed; and any person, hereby made punishable by a Magistrate of Police, shall be punishable upon summary conviction.

Fines how levied.

XIX. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Police Magistrate, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers, and in case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such security

by way of recognizance or otherwise, and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed Fifty Rupees, and for any term not exceeding four calendar months where the amount shall not exceed One Hundred Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

XX. If any servant of the Government, employed in the Electric Telegraph Department within the dominions of any Foreign Prince or State in alliance with the Government of India in which an Electric Telegraph is established by the Government, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed within the British territories in India, such servant of the Government shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last mentioned territories; and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-General of India in Council to take cognizance of offences committed in such dominions by servants of the Government, or by any Court or Magistrate or other competent Officer in any part of the British territories in India in the same manner as if the offence had been committed in such part of the said territories.

Authority to punish servants of Government who commit offences against this Act in Foreign territory.

XXI. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates, and the word "Fine" shall include a penalty or forfeiture.

Explanation of terms.

XXII. It shall be lawful for the Governor General in Council to frame rules for the conduct of any Electric Telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such Telegraph and to persons using the same, or employed in connexion therewith. It shall also be lawful for the Governor General in Council to declare from time to time that this Act, or such portions thereof as may be specified, shall be applicable to any Electric Telegraph established or to be established within the British Territories in India by any Foreign Prince or State with the consent of the British Government, and to persons using such Telegraph or employed in connexion therewith.

Government to frame rules for Telegraphs established by license.

Powers as to Telegraphs established by Foreign Powers.

ACT No. IX OF 1860.

(Received the assent of the Governor-General on the 12th March 1860.)

1. *Government may empower any Magistrate to decide disputes as to wages or price of work.*
2. *Magistrates to have jurisdiction in what cases.*
3. *Government to fix and alter local limits of jurisdiction.*
4. *Procedure in the investigation of disputes.*
5. *No appeal.*
6. *Order for payment. Distress.*
7. *Property distrained.*
8. *Penalty for workmen neglecting or refusing to work.*
9. *Operation of Act.*

An Act to make provision for the speedy determination of certain disputes bteween workmen engaged in Railway and other public works and their employers.

WHEREAS it is expedient to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers; It is enacted as follows:—

Government may empower any Magistrate to decide disputes as to wages or price of work.

I. It shall be lawful for the Executive Government of any Presidency or place within the British territories in India to invest any Magistrate, or other Officer exercising the powers of a Magistrate, with power to enquire into and decide disputes on account of wages, hire of carriage, or the price of work, between any workmen employed in the construction of any Railway, Canal, or other public work, the construction of which is or shall be sanctioned by Parliament or by any such Executive Government, and the person or persons by whom such workmen are employed.

Magistrates to have jurisdiction in what cases.

II. Magistrates empowered to decide disputes under the preceding Section shall have jurisdiction only in case the amount in dispute shall not exceed the sum of two hundred Rupees, and the claim is preferred within six months from the date on which the cause of action arose.

Government to fix and alter local limits of jurisdiction.

III. The Executive Government shall fix, and may from time to time alter, the local limits of the jurisdiction of any Magistrate invested with jurisdiction under Section I of this Act. A Magistrate so invested may hold a Court for the investigation of disputes of the nature described in the said Section, at any place within the local limits of his jurisdiction.

Procedure in the investigation of disputes.

IV. The rules for the institution of suits as provided in Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) shall, as far as circumstances will allow, be followed in the investigation of disputes under the preceding Sections, and the procedure adopted shall be that provided for cases in which the suit may be disposed of at the first hearing.

No appeal.

V. There shall be no appeal against any decision passed under this Act.

Order for payment.

VI. The Magistrate, having heard and decided the case, shall make an order for the payment of such sum of money (if any) as shall appear to him to be justly due: and if the person ordered to pay shall make default in the payment of such sum immediately or within such time as the Magistrate shall direct, the Magistrate shall issue his warrant to levy the money by distress and sale of the goods and chattels of the defaulter.

Distress.

Property distrained.

VII. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter, or are liable to be distrained and sold as aforesaid, the same shall be determined in the manner provided by the said Act VIII of 1859 for the determination of the like questions arising in the execution of decrees.

Penalty for workmen neglecting or refusing to work.

VIII. Any person who shall voluntarily engage for a stipulated period to work on any Railway, Canal, or other public work, the construction of which is or shall be sanctioned in the manner specified in Section I of this Act, or to execute any specific work in connection with such public work, and who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform the work so stipulated for, shall be liable, on conviction before a Magistrate, to a fine not exceeding Twenty Rupees. The Magistrate may, at the request of the complainant or of any one authorized to act on his behalf, instead of fining such person, order him to perform or get performed the work according to the terms of his contract or engagement; and if he shall fail to comply with the order, the Magistrate may, upon proof to his satisfaction of such non-compliance, sentence such person to be imprisoned with or without hard labor for any term not exceeding two months.

Operation of Act.

IX. This Act shall take effect only in those districts or places to which it shall be extended by order of the Governor-General of India in Council, or of the Executive Government of any Presidency or place.

ACT No. XIV OF 1860.

(Received the assent of the Governor-General on the 26th April 1860.)

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1. *Execution of Civil process.*
2. *Execution of Criminal process.*
3. *Proof of such execution.*
4. *Limits of King's residence how to be defined.*

An Act to provide for the execution of process within the premises occupied by His Majesty the King of Oude.

WHEREAS it is expedient to make provision for the execution of process within the premises occupied by His Majesty the King of Oude; It is enacted as follows:—

Execution of Civil process.

I. When any process, issued by any Civil Court, Collector, or other Revenue Officer in Her Majesty's East Indian territories, is required to be served or executed within the premises occupied by the King of Oude, such process shall be transmitted to the Officer appointed to be Agent with His Majesty on the part of the British Government, and such Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

Execution of Criminal process.

II. When any process issued by any Criminal Court, Justice of the Peace, Magistrate, or Officer exercising the powers or any of the powers of a Magistrate in Her Majesty's East Indian territories, is required to be served or executed within the premises occupied by the King of Oude, such process may, at the discretion of the Court or Officer issuing the same, be transmitted to the Officer who shall have been appointed Agent with His Majesty on the part of the British Government, and in such case such Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

Proof of such execution.

III. Every certificate returned by the Agent with His Majesty under this Act shall in all cases be admitted as *primâ facie* proof of the truth of the matter stated therein.

Limits of King's residence how to be defined.

IV. It shall be lawful for the Governor General in Council to define, for the purposes of this Act, by notification in the Calcutta Gazette, the limits of the premises occupied by the King of Oude, and from time to time in like manner to alter such limits.

ACT No. XV OF 1860.*

(Received the assent of the Governor-General on the 26th April 1860.)

1. New line of Canal made subject to Section II Act XXII of 1836.
2. Act to be read as part of Act XXII of 1836.

An Act to amend and extend Act XXII of 1836 *(relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals).*

WHEREAS it has been found necessary to open for traffic a new Canal leading from the late Toll House at Dhappa to Ooltadanga, and it is expedient that a Toll should be levied on Boats, Rafts, and Floats passing through the said Canal; It is enacted as follows:—

New line of Canal made subject to Section II Act XXII of 1836.

I. The following line of nagivation, from the date of the passing of this Act, shall be subject to the provisions of Section II Act XXII of 1836, in like manner as is enacted with respect to the two lines of navigation therein described (that is to say)—

The line of Canal running North from the late Toll House at Dhappa to Ooltadanga where it joins the Circular Canal.

Act to be read as part of Act XXII of 1836.

II. This Act shall be construed as part of the said Act XXII of 1836.

ACT No. XVI OF 1860.

(Received the assent of the Governor-General on the 26th April 1860.)

1. Section repealed.
2. Disallowance of Bye-laws by Government.
3. Publication of disallowance.

* This Act is to cease to apply to all navigable channels to which Act V. 1864 B. C. may be extended *Vide.* Act V. 1864 B. C. Section 2.

An Act to amend Act XIV of 1856.

WHEREAS it is enacted by Section CXXI of Act XIV of 1856 (*for the conservency and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*) that certain Bye-laws made by the Municipal Commissioners shall be transmitted to the Clerk of the Legislative Council as soon as conveniently may be after the confirmation thereof, and that no such Bye-law shall have effect if disallowed by order of the Legislative Council; and whereas doubts have arisen whether the Legislative Council can legally disallow any such Bye-laws by an order, or in any other manner than by a Law or Regulation, and it is expedient to avoid such doubts and to make other provision for disallowing such Bye-laws; it is enacted as follows :—

Section repealed.

I. Section CXXI of the said Act XIV of 1856 is hereby repealed.

Disallowance of Bye-laws by Government.

II. No Bye-law made under the provisions of the said Act, though confirmed by the local Government, shall continue in force after it shall have been disallowed by the local Government, except as to an act done or a breach of such Bye-law committed before the disallowance thereof.

Publication of disallowance.

III. Every disallowance of such a Bye-law shall be published in the Government Gazette, or in one or more of the public newspapers; and all Courts and Magistrates shall take judicial notice of such disallowance.

ACT No. XVII OF 1860.

(Received the assent of the Governor-General on the 26th April 1860.)

1. *Act V of 1858 repealed.*
2. *Time for the surrender of certain escaped offenders.*
3. *Punishment for not surrendering within the time named. In what cases Magistrate may pass sentence without commitment to the Sessions.*
4. *Sentences under Act V of 1858, to be deemed valid.*
5. *Certain escaped offenders, remanded to Jail, not to be prosecuted under this Act.*
6. *Enumeration of crimes referred to in Section II.*
7. *Punishment for knowingly harbouring or concealing such offenders.*
8. *Landholders to give early intelligence of the resort of escaped prisoners to their estates.*
9. *Magistrates &c., authorized to tender pardon in certain cases.*
10. *Jurisdiction.*

An Act to repeal Act V of 1858 (*for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders*), and to make certain provisions in lieu thereof.

WHEREAS it is expedient to repeal Act V of 1858 (*for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders*), and to make certain provisions in lieu therof; It is enacted as follows :—

Act V of 1858 repealed.

I. Act V of 1858 is repealed except as to any sentences passed under that Act.

Time for the surrender of certain escaped offenders.

II. It shall be competent to the Executive Government of any Presidency or place to declare by an order, as regards any or all of the Districts under such Government, the time within which the persons, who within such District or Districts shall, between the first of May 1857 and the time so declared, have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter mentioned, could and ought to have surrendered themselves to a Magistrate or Police Officer; and no such person, who shall have so surrendered himself within the period fixed as aforesaid, shall be liable to be prosecuted under this Act.

Punishment for not surrendering within the time named.

III. Every person who, whilst detained as aforesaid, shall have escaped from Jail or other lawful custody during the period mentioned in the last preceding Section, and who shall not have surrendered himself within the time declared by the Executive Government as aforesaid, may be sentenced to transportation for life or for any shorter period not being less than five years, or to imprisonment with or without hard labor in irons for any period not exceeding three years, in ad-

dition to any unexpired term of his original sentence. In any case falling within the provisions of this Section in which the Magistrate shall be of opinion that in addition to the unexpired term of the offender's original sentence, a more severe sentence than that which such Magistrate is by any law for the time being in force empowered to pass is not called for, it shall not be necessary for the Magistrate to order the commitment of the offender to the Sessions Court, but he may himself pass sentence to the extent of his powers and proceed to carry the sentence into execution.

In what cases Magistrate may pass sentence without commitment to the Sessions.

IV. All sentences already passed in cases falling within the provisions of Act V of 1858, shall be deemed valid, anything in the said Act to the contrary notwithstanding.

Sentences under Act V of 1858, to be deemed valid.

V. If any person subject to the penalty prescribed in Section I Act V of 1858, shall, before the passing of this Act, have been remanded to Jail under the order of a Magistrate to undergo the portion of his sentence remaining unexpired at the date of his escape from Jail or other lawful custody, such person shall not be liable to be prosecuted under this Act.

Certain escaped offenders, remanded to Jail, not to be prosecuted under this Act.

VI. The following are the crimes referred to in Section II, namely rebellion, mutiny, desertion, murder, attempts to murder, thuggee, dacoity, robbery, belonging or having belonged to a gang of thugs or to a gang of dacoits or to a wandering gang associated for the purpose of theft or robbery.

Enumeration of crimes referred to in Section II.

VII. Whoever shall knowingly harbour or conceal, or assist in harbouring or concealing, any such convict who shall have escaped as aforesaid and shall not have surrendered within the period provided in Section II of this Act, shall be liable to imprisonment with or without hard labor for any term not exceeding seven years, and shall also be liable to fine.

Punishment for knowingly harbouring or concealing such offenders.

VIII. All proprietors of lands, and all farmers, agents, and other persons having the charge or management of lands, are hereby declared accountable for the early communication to the Magistrates and Police Officers of intelligence of the resort, to any place within the limits of the lands held or managed by them, of any person in respect of whom there shall be reasonable suspicion of his being such convict who has escaped as aforesaid; and every proprietor or other person as aforesaid, who shall neglect to give such intelligence, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding six months, and to fine not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment for a further term not exceeding six months.

Landholders to give early intelligence of the resort of escaped prisoners to their estates.

IX. Any Magistrate or person exercising the full powers of a magistrate, unless prohibited by order of the Executive Government, is hereby authorized, without reference to any other authority, to tender a pardon to any person who may have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any crime or offence other than the crimes above-mentioned, on condition of his giving such information as may lead to the apprehension and conviction of one or more person or persons punishable under this Act. Such pardon may be tendered, as well in respect of the crime or offence for which the offender was detained, as of the offence of escaping from Jail.

Magistrates &c. authorized to tender pardon in certain cases.

X. Offences under this Act, other than those provided for by Section VIII of this Act, may be tried by a Sessions Judge, or by a Special Commissioner appointed under Act XIV of 1857 *(to make further provision for the trial and punishment of certain offences relating to the Army and of offences against the State)*; and the sentence or judgment shall not be subject to appeal. Provided that nothing contained in this Section shall extend to the trial of a European British subject.

Jurisdiction.

XI. Repealed by Act XVII, 1862.

ACT No. XXI OF 1860.*

(Received the assent of the Governor-General on the 21st May 1860.)

1. *Societies formed by Memorandum of Association and Registration.*
2. *Memorandum of Association.*
3. *Registration. Fees.*
4. *Annual list of managing body to be filed.*

* See Act X. 1866 as to Sections 1 and 18.

5. *Property of Society how to be vested.*
6. *How suits by and against Societies to be brought.*
7. *Suits not to abate.*
8. *How judgment to be enforced against officer.*
9. *Society may make Bye-law to be enforced.*
10. *Members liable to be sued as strangers.*
11. *Members guilty of offences punishable as strangers.*
12. *Societies enabled to alter, extend, or abridge their purposes.*
13. *Provision for the dissolution of Societies and adjustment of their affairs.*
14. *Upon a dissolution no Member to receive profit.*
15. *Who is a member.*
16. *The governing body defined.*
17. *Registration of Societies formed before this Act.*
18. *Such Societies to file Memorandum, &c., with Registrar of Joint-Stock Companies.*
19. *Inspection of documents. Certified copies.*
20. *To what Societies the Act shall apply.*

An Act for the Registration of Literary, Scientific, and Charitable Societies.

WHEREAS it is expedient that provision should be made for improving the legal condition of Societies established for the promotion of Literature, Science, or the Fine Arts, or for the diffusion of useful knowledge, or for Charitable purposes; It is enacted as follows:—

Societies formed by Memorandum of Association and Registration.

I. Any seven or more persons associated for any Literary, Scientific, or Charitable purpose, or for any such purpose as is described in Section XX of this Act, may, by subscribing their names to a Memorandum of Association and filing the same with the Registrar of Joint-Stock Companies under Act XIX of 1857, form themselves into a Society under this Act.

Memorandum of Association.

II. The Memorandum of Association shall contain the following things, (that is to say)—

The name of the Society.

The objects of the Society.

The names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body to whom, by the Rules of the Society, the management of its affairs is entrusted. A copy of the Rules and Regulations of the Society, certified to be a correct copy by not less than three of the Members of the governing body, shall be filed with the Memorandum of Association.

Registration.

Fees.

III. Upon such Memorandum and certified copy being filed, the Registrar shall certify under his hand that the Society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty Rupees, or such smaller fee as the Governor-General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Annual list of managing body to be filed.

IV. Once in every year, on or before the 14th day succeeding the day on which, according to the rules of the Society, the Annual General Meeting of the Society is held, or if the rules do not provide for an Annual General Meeting, in the month of January, a list shall be filed with the Registrar of Joint-Stock Companies, of the names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body then entrusted with the management of the affairs of the Society.

Property of Society how to be vested.

V. The property, moveable and immoveable, belonging to a Society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such Society, and, in all proceedings Civil and Criminal, may be described as the property of the governing body of such Society by their proper title.

How suits by and against Societies to be brought.

VI. Every Society registered under this Act may sue or be sued in the name of the President, Chairman, or Principal Secretary, or Trustees, as shall be determined by the Rules and Regulations of the Society, and in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion; Provided, that it shall be competent for any person having a claim or demand against the Society, to sue the President or Chairman or principal Secretary or the Trustees thereof, if on application to the governing body some other Officer or person be not nominated to be the defendant.

Suits not to abate.

VII. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

How judgment to be enforced against Officer.

VIII. If a judgment shall be recovered against the person or officer named on behalf of the Society, such judgment shall not be put in force against the property, moveable or immoveable, or against the body of such person or officer, but against the property of the Society. The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the Society only, and shall require to have the judgment enforced against the property of the Society.

Society may make Bye-law to be enforced.

IX. Whenever by any Bye-law duly made in accordance with the Rules and Regulations of the Society, or, if the Rules do not provide for the making of Bye-laws, by any Bye-law made at a General Meeting of the Members of the Society convened for the purpose, (for the making of which the concurrent votes of three-fifths of the Members present at such Meeting shall be necessary), any pecuniary penalty is imposed for the breach of any Rule or Bye-law of the Society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the Society shall be situate as the Governing body thereof shall deem expedient.

Members liable to be sued as strangers.

X. Any Member who may be in arrear of a subscription which according to the Rules of the Society he is bound to pay, or who shall possess himself of or detain any property of the Society in a manner or for a time contrary to such Rules, or shall injure or destroy any property of the Society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided. But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the Society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the Society, and in the latter case shall have process against the property of the said Society in the manner above described.

Members guilty of offences punishable as strangers.

XI. Any Member of the Society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such Society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the Society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner, as any person not a Member would be subject and liable to in respect of the like offence.

Societies enabled to alter, extend, or abridge their purposes.

XII. Whenever it shall appear to the governing body of any Society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such Society either wholly or partially with any other Society, such governing body may submit the proposition to the Members of the Society in a written or printed report, and may convene a Special Meeting for the consideration thereof according to the Regulations of the Society; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every Member of the Society ten days previous to the Special Meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the Members delivered in person or by proxy, and confirmed by the votes of three-fifths of the Members present at a second Special Meeting convened by the governing body at an interval of one month after the former Meeting.

Provision for the dissolution of Societies and adjustment of their affairs.

XIII. Any number not less than three-fifths of the Members of any Society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the Society, its claims and liabilities, according to the Rules of the said Society applicable thereto, if any, and, if not, then as the governing body shall find expedient; Provided that, in the event of any dispute arising among the said governing body or the Members of the Society, the adjustment of its affairs shall be referred to the principal Court of original Civil jurisdiction of the District in which the chief building of the Society is situate; and the Court shall make such order in the matter as it shall deem requisite. Provided, that no Society shall be dissolved unless three-fifths of the Members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a General Meeting convened for the purpose. Provided that, whenever the Government is a Member of, or a contributor to, or otherwise interested in any Society registered under this Act, such Society shall not be dissolved without the consent of Government.

Upon a dissolution, no Member to receive profit.

XIV. If upon the dissolution of any Society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property

whatsoever, the same shall not be paid to or distributed among the Members of the said Society or any of them, but shall be given to some other Society, to be determined by the votes of not less than three-fifths of the Members present personally or by proxy at the time of the dissolution, or in default thereof, by such Court as aforesaid; Provided however, that this Clause shall not apply to any Society which shall have been founded or established by the contributions of shareholders in the nature of a Joint Stock Company.

Proviso for Joint Stock Companies.

Who is a Member.

XV. For the purposes of this Act, a Member of a Society shall be a person, who, having been admitted therein according to the Rules and Regulations thereof shall have paid a subscription, or shall have signed the roll or list of Members thereof, and shall not have resigned in accordance with such Rules and Regulations; but in all procedings under this Act, no person shall be entitled to vote or be counted as a Member whose subscription at the time shall have been in arrear for a period exceeding three months.

The governing body defined.

XVI. The governing body of the Society shall be the Governors, Council, Directors, Committee, Trustees, or other body to whom by the Rules and Regulations of the Society the management of its affairs is entrusted.

Registration of Societies formed before this Act.

XVII. Any Company or Society established for a Literary, Scientific, or Charitable purpose and registered under Act XLIII of 1850, or any such Society established and constituted previously to the passing of this Act but not registered under the said Act LXIII of 1850, may at any time hereafter be registered as a Society under this Act; subject to the proviso, that, no such Company or Society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the Members present personally, or by proxy, at some General Meeting convened for the purpose by the governing body. In the case of a Company or Society registered under Act XLIII of 1850, the Directors shall be deemed to be such governing body. In the case of a Society not so registered, if no such body shall have been constituted on the establishment of the Society it shall be competent for the Members thereof, upon due notice, to create for itself a governing body to act for the Society thenceforth.

Such Societies to file Memorandum, &c., with Registrar of Joint Stock Companies.

XVIII. In order to any such Society as is mentioned in the last preceding Section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint Stock Companies under Act XIX of 1857, a Memorandum showing the name of the Society, the objects of the Society, and the names, addresses and occupations of the governing body, together with a copy of the rules and Regulations of the Society certified as provided in Section II, and a copy of the report of the proceedings of the General Meeting at which the registration was resolved on.

Inspection of documents.

Certified copies.

XIX. Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one Rupee for each inspection; and any person may require a copy or extract of any document or any part of any document to be certified by the Registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

To what Societies the Act shall apply.

XX. The following Societies may be registered under this Act, Charitable Society, the Military Orphan Funds or Societies established at the several Presidencies of India, Societies established for the promotion of Science, Literature, or the fine Arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of Libraries or Reading-rooms for general use among the Members or open to the public, or public Museums and Galleries of paintings and other works of Art, Collections of Natural History, Mechanical and Philosophical Inventions, Instruments, or Designs.

ACT No. XXII OF 1860.

(Received the assent of the Governor-General on the 21st May 1860).

1. Certain tracts removed from the operation of the General Regulations and Acts. Proviso.

2. Administration of justice and collection of Revenue vested in Officers subject to the control of the Lieutenant Governor of Bengal.

3. Appeals.

4. Reference to the Sudder Court.

5. Place of imprisonment or transportation.
6. Questions of disputed boundary to be determined by Commissioner of Chittagong.
7. Commencement of Act.

An Act to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts.

WHEREAS it is expedient to remove the Hilly and Forest tracts of country situated on the Eastern border of the District of Chittagong from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Offices of that District, under the General Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from the operation of the General Regulations and Acts.

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and the Acts passed by the Governor General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid; and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tract, unless the same be specially named therein: provided that, nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

II. Repealed by Act X 1870.
III. Repealed by Act X 1870.

Reference to the Sudder Court.

IV. It shall be lawful to the Lieutenant-Governor of Bengal to direct any officer empowered to administer Criminal jurisdiction in or for the tracts aforesaid to refer the sentence passed by him in any class of Criminal trials for the confirmation of the Sudder Court; and no sentence of death, passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence, shall be carried in to execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court shall not call for the Futwah of its Law Officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.

Place of imprisonment or transportation.

V. Any person, liable to be imprisoned in any Civil or Criminal Jail or to be transported beyond sea under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Jail or transported to any place which the Lieutenant-Governor of Bengal may direct.

VI. Repealed by Act X 1870.
VII. Repealed by Act X 1870

SCHEDULE.*

I

ACT No. XXIII OF 1860.

(Received the assent of the Governor-General on the 23rd May 1860.)

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1. Sections repealed. Rate of duty to be levied on spirits manufactured according to the English method.
2. Removal of spirits from distillery under bond without payment of duty.
3. Imprisonment in default of payment of fine.
4. Indemnity to Collectors &c.
5. Construction of Act.

* Repealed and superseded by Act IV. 1863 of the Bengal Council, which see.

An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.)

WHEREAS it is expedient to increase the rate of duty levied on spirits manufactured at distilleries worked according to the English method, and otherwise to amend Act XXI of 1856; It is enacted as follows :—

Sections repealed.

Rate of duty to be levied on spirits manufactured on the English method.

I. * * * * On and after the 21st January 1860 it shall be lawful for the Government to levy the duty as aforesaid at the rate of three Rupees, and the duty shall be rateably increased as the strength exceeds London proof.*

II. Repealed by Act VI of 1863.

Imprisonment in default of payment of fine.

III. When any person is sentenced to pay any fine or forfeiture under the said Act, such person in default of payment of the same may be imprisoned by order of the Magistrate for any term not exceeding two months when the amount of the fine or forfeiture shall not exceed fifty Rupees, or for any term not exceeding four months when the amount of the fine or forfeiture shall not exceed two hundred Rupees, or for any term not exceeding six months when the amount of the fine or forfeiture shall exceed two hundred Rupees: but in any case the imprisonment shall determine upon the payment of the fine or forfeiture adjudged.

Indemnity to Collectors, etc.

IV. Every Collector or other officer is hereby indemnified for any thing done on and after the said 21st of January 1860 in collecting or enforcing the duty leviable under the 1st Section of this Act, or by virtue of any order of Government heretofore made authorizing the levy of any such duty, or in otherwise carrying out this Act; and no action or other proceeding shall be maintained against any such Collector or other officer in respect of any thing so done.

Construction of Act.

V. This Act and Act XXI of 1856 as hereby amended shall be read as one Act.

ACT No. XXIV. OF 1860.

(Received the assent of the Governor-General on the 23rd May 1860.)

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1. Part of Stat. 58 Geo. III, c. 84 repealed.

An Act for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland.

WHEREAS by an Act of Parliament passed in the 58th year of the reign of King George the 3rd, entitled "An Act to remove doubts as to the validity of certain Marriages had and solemnized within the British Territories in India," it was declared and enacted (amongst other things) that from and after the 31st day of December then next ensuing all marriages between persons, both or one of such persons being members or member of, or holding communion with the Church of Scotland, and making a declaration to the effect thereinafter mentioned, which marriages should be had and solemnized within the British territories in India by ordained Ministers of the Church of Scotland as by law established, and appointed by the United Company of Merchants of England trading to the East Indies to officiate as Chaplains within the said territories, should be, and should be adjudged, esteemed, and taken to be of the same, and no other force and effect, as if such marriages were had and solemnized by Clergymen of the Church of England, according to the rites and ceremonies of the Church of England: and whereas it is expedient that so much of the said Act of Parliament as requires ordained Ministers of the Church of Scotland celebrating such marriages to be also persons appointed to officiate as Chaplains within the said territories, should cease to have effect; it is enacted as follows :—

Part of Stat. 58 Geo. III, c. 84 repealed.

I. So much of the said Act of Parliament as requires that the ordained Ministers of the Church of Scotland as by law established therein referred to should be persons appointed to officiate as Chaplains within the said territories, is hereby repealed.

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* The portion of this Section omitted has been repealed by Act XIV of 1870.

ACT No. XXV OF 1860. *

(Received the assent of the Governor General on the 23rd May 1860.)

1. Port-due chargeable on sea-going vessels of ten tons and upwards entering the Port.
2. Rate of Port-due on vessels compelled by stress of weather to enter Port.
3. No Port-due on vessels compelled by stress of weather to re-enter Port.
4. No vessels to pay the Port-due oftener than once in sixty days.
5. Commencement of Act. Rates of Port-dues to be published. No Port-due to be levied except under this Act.
6. Act to be read as part of Act XXII of 1855.

An Act for the levy of Port-dues in the Port of Bassein.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Port of Bassein in accordance with the provisions of Act XXII of 1855; It is enacted as follows :—

Port-due, chargeable on sea-going vessels of ten tons and upwards entering the Port.

I. A Port-due, at a rate not exceeding the rate of four annas per every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter the said Port.

Rate of Port-due on vessels driven by stress of weather &c. to enter Port.

II. When any vessel enters the said Port, being driven in by stress of weather, or in consequence of having sustained any damage or of any other reason, but does not discharge or take in any cargo or passenger therein (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair), the Port-due chargeable in respect of such vessel shall be a rate equal to one half the rate chargeable in respect of other vessels.

No Port-due on vessels compelled by stress of weather to re-enter Port.

III. Provided that, when any vessel having left the said Port is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessel to pay Port-due oftener than once in 60 days.

IV. No vessel shall be required to pay the Port-due chargeable under this Act oftener than once in sixty days.

No Port-due to be levied except under Act.

V. * * * * * no Port-due shall be levied at the said Port except under the authority of Act XXII of 1855 and of this Act.†

Act to be read as part of Act XXII of 1855.

VI. This Act shall be read with and taken as a part of Act XXII of 1855.

ACT No. XXVII OF 1860.

(Received the assent of the Governor-General on the 25th June 1860.)

1. Acts repealed.
2. No debt recoverable without a certificate.
3. Certificate how to be obtained.
4. Effect of certificate.
5. Court may take security from grantee of certificate.
6. Sudder Court may suspend certificate granted by District Court, or direct further proceedings. Sudder Court may grant fresh certificate in supersession of the certificate granted by the District Court.
7. Local extent of power given by certificate.
8. Government Securities, Bank-Shares, and shares in Public Companies.
9. Appointment of Trustee in case of disputed succession, Proviso.
10. Appropriation if securities be not settled within two years, Proviso.
11. Effect of certificate granted by trustee.
12. Payments under certificate void by reason of previous certificate.
13. Certificate in respect of property of deceased Hindoos, Mahomedans, &c., void after grant of probate or letters.
14. Certain payments under certificate granted after grant of probate or letters, protected.
15. Probate or letters void after grant of certificate. Proviso.

* Section 1 Act XIII 1867 to be read as part of this Act.
† The portion of this Section omitted has been repealed by Act XIV of 1870.

16. *Certain payments under probate or letters, granted after grant of certificate, protected.*
17. *Curators prohibited from exercising certain powers.*
18. *Effect of probates and letters granted to representatives of "British subjects."*
19. *Effect of certificate granted by British Representatives in Foreign States.*
20. *Local extent of power given by such certificates.*
21. *Extension of certificate.*
22. *Security upon extension.*
23. *Act not to apply to British Subjects.*
24. *Interpretation.*

An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to consolidate and amend certain Acts now in force which provide greater security for persons paying to the representatives of deceased Hindoos, Mahomedans, and others not usually designated as British subjects, debts which are payable in respect of the estates of such deceased persons, and which facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same; It is enacted as follows:—

Acts repealed.

I. Act XX of 1841 *for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*): so much of Act VIII of 1842 as relates to the said Act XX of 1841: Act X of 1851 (*to amend Act XX of* 1841 *for the administration of the personal estate of deceased persons*): and Act VIII of 1854 (*to explain and amend Act X of* 1851 *and Act XX of* 1841) are hereby repealed; except as to certificates granted and acts done under the authority of the said laws before the passing of this Act.

No debt recoverable without a certificate.

II. No debtor of any deceased person shall be compelled in any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned, or of a probate or letters of administration, unless the Court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

Certificate how to be obtained.

III. The District Court within the jurisdiction of which the deceased shall have ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The Court shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and, upon the appointed day or as soon after as may be convenient, shall determine the right to the certificate and grant the same accordingly.

Effect of certificate.

IV. The certificate of the District Court shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favor the certificate has been granted.

Court may take security from the grantee of a certificate.

V. The Court may take such security as it shall think necessary from any person to whom it shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the monies received by virtue of such certificate whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

Sudder Court may suspend any certificate granted by a District Court or direct further proceedings.

Or grant fresh certificate in supersession of the certificate granted by the District Court.

VI. The granting of such certificate may be suspended by an appeal to the Sudder Court, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also, upon petition, after a certificate shall have been granted by the District Court, grant a fresh certificate in supersession of the certificate granted by the District Court. Such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted, without notice that the same has been superseded, but shall entitle the person named therein to receive all monies that may have been recovered under the first certificate from the person to whom the same may have been granted.

Local extent of power given by certificate.

VII. Every certificate shall give authority to the person to whom the same is granted throughout the Presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

Government Securities, Bank-Shares, and

VIII. If the estate of the deceased shall include any Government Securities or Bank-Shares, or any shares in any public Company, the certificate may

empower the person certified as aforesaid to receive interest or dividends thereon, or on any of them, or to negotiate the same or any of them; in such case the certificate shall describe the securities and shares in respect of which such powers are given, and such powers shall not be vested by the certificate except by express words.

shares in Public Companies.

IX. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any Government Securities as the representatives of any deceased person, the District Court, whenever sufficient cause shall be shown, and on the request of any such claimant, may, so far as concerns the said securities, grant a certificate under this Act to such person as shall be from time to time appointed by the local Government to act as trustee under this Section, and shall specify in such certificate the several persons appearing to him to be such proprietors and their several shares; and the said trustee by virtue of such certificate shall be entitled to receive and give discharges for the interest accruing due on such securities, and shall account for and pay the sum to the several persons specified in the certificate, to be thereunto entitled, according to the shares therein set forth, and shall be empowered to act in all other respects concerning the said securities as agent for such persons, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the local Government shall think fit. Provided nevertheless, that the right of any other person to recover the whole or any part of the monies so paid by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

Appointment of Trustee in case of disputed succession.

Proviso.

X. If any such disputes among persons claiming to be proprietors of Government Securities are not ended within two years from the date of the certificate granted under the last preceding Section, the said trustee may apportion the principal sum of the said securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities, from the proper officer appointed to issue the same in the respective names of the several parties certified to be entitled thereto; provided that such new securities shall be issued only according to the rules in use for the regulation and issue of such Government Securities, and the receipt of the said trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge to the Government against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued. Provided always that, if the amount of any Government Securities in dispute, or any part thereof, shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustee may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

Appropriation of securities, if not settled within two years.

Proviso.

XI. Every certificate granted to the trustee appointed under Section IX shall be taken to supersede and annul any previous certificate so far as such previous certificate relates to the said Government Securities.

Effect of certificate granted by trustee.

XII. When a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the latter certificate in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.

Payments under certificate void by reason of previous certificate.

XIII. With regard to the property of a deceased Hindoo, Mahomedan, or other person not usually designated by the term "British subject," no certificate in respect of any such property shall be valid if made after a probate or letters of administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the Court granting the probate or letters of administration.

Certificate in respect of property of deceased Hindoos, Mahomedans, &c., void after grant of probate or letters.

XIV. Where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the probate or letters of administration, shall be held good against claims under the probate or letters of administration so previously granted.

Certain payments under certificate granted after grant of probate or letters, protected.

XV. No probate or letters of administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same property for which such probate or letters of administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the Jurisdiction of the Court granting such certificate.

Probate or letters void after grant of certificate.

Proviso.

XVI. Where probate or letters of administration may have been granted in cases in which such probate or letters of administration would be valid but for the previous grant of a certificate, all payments made in ignorance of the pre-

Certain payments under probate or letters, granted after

grant of certificate protected.

vious grant of the certificate shall be held good against claims under such previous certificate.

Curators not to exercise certain powers.

XVII. Curators appointed under Act XIX of 1841 who may be invested with certain powers which are conferred on persons obtaining certificates under his Act, shall not exercise any powers which, but for that Act, would lawfully belong to persons obtaining certificates, or to executors or administrators where a certificate, probate, or letters of administration has been actually obtained; but all persons who may have paid debts or rents to a curator authorized by a Court to receive the same shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor or administrator as the case may be.

Effects of probates and letters granted to representatives of "British subjects."

XVIII. All probates and letters of administration granted by any Supreme Court of Judicature in cases in which any assets belonging to deceased persons were at the time of their deaths within the local jurisdiction of the Court granting the probate or letters of administration, shall have the effect of probate and letters of adminstration granted in respect of the property of British subjects. but for the purpose of the recovery of debts only and the security of debtors paying the same, except so far as is in this Act Provided.

Effect of certificates granted by British representatives in Foreign States.

XIX. A certificate of administration granted by the British representative accredited to any Foreign Prince or State shall, as regards the residents within the territories of such Prince or state, have the same effect in respect to Government Securities as a certificate granted to a Native subject of Her Majesty under the provisions hereinbefore contained.

Local extent of power given by such certificates.

XX. Every certificate of administration granted under the last preceding Section shall, as regards the Government Securities, give authority to the person to whom the same shall be granted throughout the British territories in India, and have the same effect throughout the said territories as a certificate granted under Section VII of this Act has within the Presidency within which the same is granted.

Extension of certificates.

XXI. Any Court or Officer authorized to grant a certificate may from time to time extend the same to any Government Security or Bank share not originally specified therein, and every such extension shall have the same effect as if the Government Security or Bank share to which the certificate shall be extended had been originally specified therein.

Security upon extension.

XXXII. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

Act not to apply to British subjects.

XXIII. Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.

Interpretation.

XXIV. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The words "District Court" shall mean the principal Civil Court of original jurisdiction of a Zillah or District.

The words "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in any part of the British territories in India not subject to the control and superintendence of a Sudder Court.

ACT No. XXX OF 1860.

(Received the assent of the Governor-General on the 5th July 1860.)

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1. Koonch and Calpee removed from the operation of the general Regulations.
2. Suits and proceedings pending at the passing of the Act.
3. Suits determined before the passing of this Act, but which may be remanded by an Appellate Court.
4. Appeals or proceedings pending before the Sudder Court or Sudder Board. Application for execution of decrees or orders in pending suits or proceedings.
5. New appeals from decrees or orders passed before the passing of this Act.

An Act to remove the Pergunnahs of Koonch and Calpee in Zillah Jaloun from the operation of the general Regulations.

WHEREAS the Zillah of Jaloun, with the exception of the Pergunnahs of Koonch and Calpee, has never been brought under the operation of the general Regulations; and whereas it is expedient that those Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the Zillah; It is enacted as follows :—

Koonch and Calpee removed from the operation of the general Regulations.

I. Regulation VIII. 1805 of the Bengal Code (*for extending to the conquered Provinces situated within the Dooab, and on the right bank of the river Jumma, and to the Territory ceded to the Honorable the English East India Company in Bundelkund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations*), in so far as it relates to the Pergunnahs of Koonch and Calpee in the Zellah of Jaloun, is hereby repealed, and the said Pergunnahs shall be subject to the same laws as are now or may hereafter be in force in the said Zillah.

Suits and proceedings pending at the passing of the Act.

II. All suits and proceedings which, at the time of the passing of this Act, shall be pending in any Court or before any Officer in the said Pergunnahs, shall be heard and determined in the same manner as if the said Pergunnahs had never been brought under the operation of the general Regulations.

Suits determined before the passing of this Act, but which may be remanded by an Appellate Court.

III. Any suit which, before the passing of this Act, had been determined and which hath been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Appeals or proceedings pending before the Sudder Court or Sudder Board.

Applications for execution of decrees or orders in pending suits or proceedings.

IV. All appeals or proceedings now pending in the Court of Sudder Dewanny Adawlut or in the Court of Nizamut Adawlut or before the Sudder Board of Revenue for the North-Western Provinces, shall be determined by such Court or Board in the same manner as if this Act had not been passed; and all applications for executions of decrees or orders which, but for the passing of this Act, would have been made to any Court or officer existing at the period abovementioned, shall be made to the Court or officer that would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

New appeals from decrees or orders passed before the passing of this Act.

V. All appeals from decrees or orders passed before the passing of this Act shall be received, heard, and determined by the Courts or Officers who would have had Jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the passing of this Act.

ACT No. XXXI OF 1860.

(Received the assent of the Governor-General on the 17th July 1860.)

1. *Act XXVIII of 1857 continued in force till first October 1860.*
2. *Manufacture of cannon, &c. without authority of Government prohibited.*
3. *Penalty for possession of cannon, &c., without permission. Exception.*
4. *Permission to possess cannon, &c., to be in writing, and to specify number permitted to be possessed.*
5. *Manufacturing or dealing in arms and ammunition without license prohibited. Penalty.*
6. *Specification of arms referred to in Section V.*
7. *Licenses by whom to be granted.*
8. *Form &c. of license.*
9. *Licensee to affix a board in a conspicuous part of his shop.*
10. *Penalty for omission.*
11. *Penalty for putting up a board without a license.*
12. *Duration of license.*
13. *Penalty for knowingly purchasing arms or ammunition from an unlicensed person.*
14. *Licensed manufacturers or dealers to enter in a book account of stock in trade, names of purchasers, &c. Inspection of book.*
15. *Magistrate or other Officer may inspect dealers' premises.*

16. Revocation of license to manufacture or deal in arms or ammunition.
17. Cannon and arms and ammunition not to be imported without license.
18. Penalty for importation without license.
19. Importation of arms and ammunition for private use.
20. Seizure and detention of sulphur by Government.
21. Exception.
22. Government may prohibit transport of arms, ammunition, military stores, &c.
23. Penalty for prohibited transport.
24. Provisions of two preceding Sections not to apply to Districts not ordered or liable to be disarmed under Section XXXII.
25. Persons conveying arms, ammunition, &c. under suspicious circumstances may be apprehended without warrants. Procedure if apprehended by other than Magistrates, &c.
26. Penalty for going armed or carrying arms without a license.
27. Exemptions. Commissioned, Non-Commissioned, and Warrant Officers, Soldiers and Sailors. Volunteers. Police and Revenue Officers. Other persons.
28. Grant and revocation or suspension of licenses to carry arms.
29. Form of licenses.
30. License to state name of grantee, and number of followers to whom it is to apply.
31. Search and seizure of arms and ammunition in certain cases.
32. Executive Government may order any District or place to be disarmed.
33. Penalty for refusing to produce or for concealing arms, &c., searched for.
34. Penalty for assaulting or resisting any person in the execution of any power vested in him by this Act.
35. Cognizance of offence.
36. District in which certain offences shall be tried.
37. Magistrate may refer offences punishable with fine to his Assistants for trial.
38. Local Government may authorize Assistants to exercise such powers without reference by Magistrate.
39. Magistrate may call for any case pending before such Assistant.
40. Jurisdiction over British subjects committing certain offences beyond the limits of Supreme Court.
41. Summary jurisdiction in respect of certain offences committed within the limits of Supreme Court.
42. Conviction to be quashed on merits only.
43. All other offences committed within limits of Supreme Court punishable by such Court.
44. Levy of forfeiture and penalties by distress.
45. Procedure until return is made to warrant of distress.
46. Imprisonment, if distress not sufficient.
47. Levy of fines from European British subjects.
48. Rewards to informers.
49. Notice and limitation of suits.
50. Parts of District may be withdrawn from the operation of the Act and again made subject to it.
51. Act not intended to alter or affect any other law relating to licenses.
52. Award of hard labor not commutable to fine.
53. Grant of licenses in Presidency Towns.
54. Interpretation of the word "India."
55. Commencement and duration of Act.

An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.

WHEREAS it is expedient to regulate the manufacture, importation, and sale of Arms and Ammunition and the right to keep and use the same, and also to give power of disarming Districts and places in certain cases; It is enacted as follows:—

I. Repealed by Act XIV of 1870.

Manufacture of cannon, &c., without authority of Government, prohibited. Penalty.

II. No person in India, unless authorized by Government, shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, and whoever not being so authorized shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, shall be liable to a fine not exceeding one thousand Rupees, and to imprisonment with or without hard labor for a period not exceeding three years.

III. If any person in India shall, without the permission of the local Government, have in his possession any cannon, howitzer, or mortar, except in the course of his duty as a public Officer of Government, he shall be liable to a fine not exceeding Five Hundred Rupees for every such cannon, howitzer, or mortar, and in default of payment thereof may be imprisoned with or without hard labor for a period not exceeding one year. The provisions of this Section shall not extend to any cannon, howitzer, or mortar, forming part of the ordinary armament of any ship or vessel.

Penalty for possession of cannon, &c., without permission.

Exception.

IV. Whenever the local Government shall permit any person to possess any cannon, howitzer, or mortar, such permission shall be in writing and signed by the Secretary to the Government, and shall specify the number of cannon, howitzers, or mortars, permitted to be possessed by such person. A fee of Fifty Rupees shall be paid on the delivery of such written permission.

Permission to possess cannon, &c., to be in writing, and to specify number permitted to be possessed.

V. No person shall manufacture, repair, or sell, or keep or expose for sale, any arms of the description hereinafter mentioned, or shall manufacture or sell, or keep or expose for sale, percussion caps, sulphur, gunpowder, or other ammunition, except under a license to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition, as the case may be, and any person who shall manufacture, repair, sell, or keep or expose for sale, any of such arms, or any percussion caps, sulphur, gunpowder, or other ammunition whithout such license as aforesaid, contrary to any of the conditions contained in such license, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and all arms, percussion caps, sulphur, gunpowder, or other ammunition belonging to the offender shall be forfeited, if the Court or Officer before whom the offender is convicted shall so adjudge.

Manufacturing or dealing in arms and ammunition, without license prohibited.

Penalty.

VI. The following are the arms referred to in Section V. namely, fire-arms bayonet, sword, dagger, spear, and spear head.

Specification of arms referred to in Section V.

VII. Licenses to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition may be granted by a Magistrate, or by an Officer authorized by the Governor-General of India in Council or by the Executive Government to grant such licenses.

License by whom to be granted.

VIII. Licences granted under the last preceding Section shall be in the form prescribed by the Governor-General of India in Council, and shall be engrossed on a stamp paper of the value of ten Rupees. The stamp paper shall be furnished by the person applying for the license. A separate license shall be taken out for the sale of sulphur.

Form, &c. of license.

IX. Every person to whom such license shall be granted shall affix a board in a conspicuous part of his shop or usual place of business, and shall cause to be painted thereon in large letters in the vernacular of the District the words "Licensed to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition," as the case may be.

Licensee to affix a board in a conspicuous part of his shop.

X. If any person to whom such license shall be granted shall omit to put up a board inscribed as above in a conspicuous part of his shop or usual place of business, he shall be liable to a fine not exceeding One Hundred Rupees.

Penalty for omission.

XI. If any person, to whom such license shall not have been granted in the manner prescribed, shall put up such board as aforesaid in his shop or usual place of business, he shall be liable to a fine not exceeding One Hundred Rupees.

Penalty for putting up a board without a license.

XII. Licences granted under Section VII of this Act shall be in force for one year from the date thereof.

Duration of license.

XIII. Any person knowingly purchasing arms of the description mentioned in Section VI or any purcussion caps, sulphur, gunpowder, or other ammunition from any person not Licensed, shall be liable to a fine not exceeding One Hundred Rupees.

Penalty for knowingly purchasing arms or ammunition from an unlicensed person.

XIV. Every person licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, shall enter in a book to be kept by him for that purpose, an account of all the stock-in-trade which he may from time to time have in his possession or under his control, and also the name and address of every purchaser of arms, percussion caps, sulphur, gunpowder, or other ammunition sold by him, together with the nature, description, and quantity of such arms, percussion caps, sulphur, gunpowder, or other ammunition. Such book shall be open at all times to inspection by the Magistrate or other officer duly authorized by Government in that behalf, by whom copies may be taken of all entries therein contained. If any such person shall omit or fail duly to keep such book, or to make therein all such entries as are hereby required, or if any person shall prevent or obstruct the inspection of such book or shall make a false entry therein, he shall be liable for every such offence to a fine not exceeding Five Hundred Rupees, in addition to double the value of any arms, percussion caps,

Licensed Manufacturers or dealers to enter in a book an account of stock-in-trade, names of purchasers, &c.

Inspection of book.

sulphur, gunpowder, or other ammunition sold of which he shall fail to make such entry or respecting which he shall make a false entry; and if the offender be licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, he shall also forfeit his license if the Magistrate shall so adjudge.

Magistrate or other officer may inspect dealers premises.

XV. The Magistrate or other Officer authorized by Government as aforesaid may at any time enter the premises in which arms, percussion caps, sulphur, gunpowder, or other ammunition shall be manufactured or kept by any licensed manufacturer or dealer in arms or percussion caps, sulphur, gunpowder or other ammunition, in order to inspect the stock-in-trade of such manufacturer or dealer, and if any such manufacturer or dealer shall intentionally conceal from such Magistrate or other officer as aforesaid any part of his stock-in-trade, or shall wilfully refuse to point out where the same is kept, he shall be liable to a fine not exceeding Five Hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and any arms, percussion caps, sulphur, gunpowder or other ammunition belonging to such person may be seized, and shall be confiscated if the Magistrate shall so adjudge.

Revocation of license.

XVI. Any license granted under the provisions of Section VII may be granted subject to such conditions as shall be thought necessary, and may be revoked or suspended by the officer authorized to grant such licenses whenever he may think fit.

Cannon &c. and ammunition not to be imported without license.

XVII. No cannon, howitzer, or mortar, and no arms, percussion caps, sulphur, saltpetre, gunpowder or other ammunition, shall be imported either by sea or by land into any part of the territories in the possession and under the Government of India, except under a license from the Governor-General of India in Council or from some officer authorized in that behalf by the Governor-General of India in Council.

Penalty for importation without license.

XVIII. If any person shall import or attempt to import without such license, either by sea or by land into any part of the said territories, any cannon, howitzer, or mortar, or any arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, or shall aid or assist in such importation or in such attempt to import, or shall knowingly conceal or assist in concealing any cannon, howitzer, or mortar, or any arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, imported without such license, he shall be liable to imprisonment with or without hard labor for any term not exceeding three years, and also to a fine not exceeding One Thousand Rupees, and the articles so imported shall be confiscated if the Magistrate shall so adjudge.

Importation of arms and ammunition for private use.

XIX. The provisions of the last two preceding Sections shall not extend to arms, percussion caps, gunpowder, and other ammunition imported by any person in reasonable quantities for his own private use; but the Collector of Customs may at any time detain any such articles, if he shall think it necessary, until he shall receive the orders of Government.

Seizure and detention of sulphur by Government.

XX. The Governor-General of India in Council or the local Government may at any time seize all sulphur in the possession of any person and detain the same for such time as they may deem necessary for the public safety.

Exception.

XXI. Nothing in this Act shall apply to sulphur kept or sold in reasonable quantities for medical purposes.

Government may prohibit transport of arms, ammunition, military stores, etc.

XXII. The Governor-General of India in Council may by order prohibit the transport of any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, or any particular description of arms, ammunition, or military stores from one part of India to another, or the transport thereof in any particular direction to be specified in the order, or prohibit the transport thereof except according to such rules and conditions as may be specified in the order, and the local Government of any Presidency or place shall have the like power within the territories under its Government.

Penalty for prohibited transport.

XXIII. If any person shall transport or cause to be transported or shall attempt to transport or cause to be transported, or shall aid in transporting any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, contrary to such order, or to the rules and conditions specified therein, he shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding three years, or to both fine and imprisonment, and the articles transported or attempted to be transported shall be confiscated. If any person shall by concealment or other device transport or cause to be transported, or attempt to transport or cause to be transported such arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, he shall in addition to the fine hereby provided, be liable upon conviction, to imprisonment with or without hard labor for a term not exceeding seven years.

Provisions of two preceding Sections

XXIV. Nothing in the last two preceding Sections shall extend to arms, percussion caps, gunpowder, and other ammunition transported by any person

in reasonable quantities for his own private use, in any District or place not ordered or liable to be disarmed under Section XXXII of this Act.

not to apply to Districts not ordered or liable to be disarmed under Section XXXII.

XXV. If any person shall be found carrying or conveying any arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, in such a manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by such person with intent to use the same, or that the same may be used for any unlawful purpose dangerous to the public peace, it shall be lawful for any Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer or for any other person to apprehend without warrant the person so carrying or conveying such arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, and to detain such person in custody in order that he may be dealt with according to law. If any person be apprehended by a person not being a Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer, he shall be delivered over as soon as possible to a Police Officer, and all persons apprehended by or delivered to a Police Officer under the provisions of this Section shall be carried before a Magistrate or other Officer competent by law to punish him for the offence or to commit him for trial.

Persons conveying arms, ammunition, etc., under suspicious circumstances may be apprehended without warrant.

Procedure if apprehended by other than Magistrates, etc.

XXVI.* If any person shall go armed with or carry any arms of the description mentioned in Section VI. of this Act without having obtained a license from a Magistrate or other Officer authorized by the Governor-General of India in Council or the local Government authorizing him to carry arms, he shall be liable to be disarmed by any Magistrate, Joint Magistrate, or Deputy Magistrate, or Assistant to a Magistrate, or by a Police Officer, if in the judgment of such Magistrate or other officer as aforesaid it is dangerous to the public peace to allow such person to go armed or to carry arms.

Penalty for going armed or carrying arms without a license.

XXVII. The provisions of the last two Sections do not apply to—

Exemptions.

Officers, Non-Commissioned Officers, Warrant Officers, Soldiers, and Sailors in the Military or Naval Service of Her Majesty, in respect of arms and ammunition kept by them for use in the public service.

Officers, Soldiers and Sailors.

Members of Volunteer Corps in respect of such arms and ammunition.

Volunteers.

Police and Revenue Officers and other persons in respect of arms and ammunition furnished by Government for use in the public service, or provided by themselves with the sanction of Government for such use.

Police and Revenue Officers.

Such other persons as the local Government may think fit to exempt from such provisions.*

Other persons.

XXVIII. Licenses to carry arms may be granted by any Magistrate or other officer specially authorized by the Governor-General of India in Council or the local Government to grant such licenses, and may be revoked or suspended by any officer authorized to grant such licenses, whenever he may think fit.

The grant and revocation or suspension licenses.

XXIX. The license shall be in the form prescribed by the Governor-General of India in Council.

Form of license.

XXX. The license shall state whether its operation is limited to the person in whose favor it is granted and whom it shall mention by name, or whether it extends to any of his followers. In the latter case the number of the followers of such person licensed to carry arms, and the number and description of arms to be carried by each of such followers, shall be specified.†

License to state name of grantee, and number of followers to whom it is to apply.

XXXI. Whenever a Magistrate shall have reason to believe that any person residing within the limits of his jurisdiction has in his possession any arms of the description mentioned in Section VI of this Act. or percussion caps, sulphur, gunpowder, or other ammunition for any unlawful purpose, or that such person cannot in the judgment of the Magistrate be left in the possession of any such arms, percussion caps, sulphur, gunpowder, or other ammunition without danger to the public peace, it shall be lawful for such Magistrate, having first recorded the grounds of his belief, to cause a search to be made of the house or premises occupied by such person or on which the Magistrate may have reason to believe such arms, percussion caps, sulphur, gunpowder, or other ammunition are to be found, and to seize and to detain the same in safe custody for such time as he may deem necessary. The search in such case shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate, or a European Assistant, or by or in the presence of some European Officer, Civil or Military, to be specially empowered by Government.

Search for and seizure of arms and ammunition in certain cases.

XXXII. *Clause* 1. It shall be lawful for the Governor-General of India in Council or for the Executive Government of any presidency or for any Lieuten-

Government may order any District or place to be disarmed.

* See Act VI. 1866.

† Regarding persons authorised to grant licenses mentioned in Sections 26, 28, 29, 30 see Act VI. 1866.

ant-Governor, or with the sanction of the Governor-General in Council for the Chief Commissioner or Commissioner of any Province, District, or place subject to their administration respectively, whenever it shall appear necessary for the public safety, to order that any Province, District, or place shall be disarmed.

Clause 2. In every such Province, District, or place, as well as in any Province, or District, or place in which an order for a general search for arms has been issued and is still in operation under Act XXVIII of 1857, it shall not be lawful for any person to have in his possession any arms of the description mentioned in Section VI of this Act, or any percussion caps, sulphur, gunpowder, or other ammunition without a license.

Penalty for refusing to produce or for concealing arms, etc., searched for.

XXXIII. If on any such search being made under the provisions of either of the last two Sections, any person having in his possession or power any such arms, percussion caps, sulphur, gunpowder, or other ammunition or knowing where such arms, percussion caps sulphur, gunpowder or other ammunition are concealed, shall refuse to produce or point out the same to the Officer making the search or if any person shall intentionally conceal or attempt to conceal any such arms percussions caps, sulphur, gunpowder, or other ammunition, such person may be apprehended without warrant, and shall be liable to imprisonment with or without hard labor for a term not exceeding two years, and also to a fine not exceeding one thousand Rupees.

Resistance to the execution of any power under this Act.

XXXIV. Whoever assults or resists, or aids or assists any person in assaulting or resisting any person in the execution of any power vested in him by this Act, shall be liable to a fine not exceeding Two Hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six calendar months, or to both fine and imprisonment.

Cognizance of offence.

XXXV. Except as otherwise provided, all offences under this Act may be tried by any Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, unless the period of imprisonment to which the offender may be liable exceed that which the Magistrate, Joint Magistrate, or other officer as aforesaid is competent to award under the laws for the time being in force in the Presidency or place in which such Magistrate, Joint Magistrate, or other officer as aforesaid is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Magistrate, Joint Magistrate, or other officer as aforesaid, the offender shall be committed for trial before the Sessions Judge, if the evidence given before such Magistrate, Joint Magistrate, or other officer as aforesaid shall appear to such Magistrate, Joint Magistrate, or other officer sufficient for the conviction of the accused.

District in which certain offences shall be tried.

XXXVI. Except as aforesaid, all offences declared to be punishable under this Act with fine, or fine and imprisonment, may be tried in the District or place in which the offence was committed, or in which the person charged with the same is apprehended.

Magistrate may refer offences punishable with fine only to his Assistants.

XXXVII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants, and in such case every such Assistant may exercise all the powers vested in a Magistrate by any law for the time being in force, subject to all the rules applicable to criminal cases deputed to such Assistant acting judicially.

Government may authorize Assistants to try such cases without reference by Magistrate.

XXXVIII. The local Government may give general authority to any such Assistant to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant within one month from the date of conviction.

Magistrate may call for any case pending before Assistant.

XXXIX. A Magistrate, may at any time call from any of this Assistants, any case pending before such Assistants.

Jurisdiction over British subjects committing certain offences beyond the limits of Supreme Court.

XL. If any offence which by this Act is declared to be punishable with fine and imprisonment, or imprisonment only, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender shall be liable, upon conviction before one of the said Supreme Court of Judicature, to the punishment to which by this Act the offender is declared to be liable upon conviction.

Summary jurisdiction as to certain offences committed within the limits of the Supreme Court.

XLI. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, such offence shall be punishable upon summary conviction by any Police Magistrate of the Presidency Town or Station in which such Court is held.

Conviction to be quashed on merits only.

XLII. No conviction, order, or judgment under the last preceding Section shall be quashed for error of form or procedure, but only on the merits; and

it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment in obedience to any writ of *certiorari*, and, if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

All other offences committed within limits of Supreme Court punishable by it.

XLIII. All other offences punishable under this Act which shall be committed within the local limits of any Court of Judicature established by Royal Charter, shall be punishable by such Court.

Forfeitures or penalties to be levied by distress.

XLIV. All forfeitures or penalties imposed under the authority of this Act for offences punishable by any Magistrate of Police or by any Magistrate, or person lawfully exercising the powers of a Magistrate, or Assistant Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of any of the above named Officers.

Procedure until return is made to the warrant of distress.

XLV. In case any such forfeitures or penalties shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment, if distress not sufficient.

XLVI. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

XLVII. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Rewards to informers.

XLVIII. Any fine or penalty levied from any person convicted of an offence under this Act, or any portion of such fine or penalty, may be awarded to the person on whose information the conviction shall take place.

Notice and limitation of suits.

XLIX. No suit, action, or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Parts of District may be withdrawn from the operation of the Act and again made subject to it.

L. It shall be lawful for the Governor-General of India in Council or for the executive Government of any Presidency or for any Lieutenant-Governor, or with the sanction of the Governor-General of India in Council for any Chief Commissioner of any province, from time to time to withdraw from the operation of all or any of the provisions of this Act any part or parts of any District or place: and in like manner, as occasion shall require, to subject the same again to the operation of all or any of the provisions of this Act.

Act not intended to alter or affect any other law relating to licenses.

LI. Nothing in this Act shall be construed to alter or affect the provisions of any law or other Regulation for the time being in force relating to Licenses.

LII. Repealed by Act XIV of 1870.

Grant of licenses in Presidency Towns.

LIII. All licenses which may by this Act be granted by a Magistrate may in the Presidency Towns be granted by a Commissioner of Police.

Meaning of the word "India."

LIV. The word "India" in this Act shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

Commencement and duration of Act.

LV. The first Section of this Act shall take effect from the passing thereof and all the rest of this Act shall take effect from and after the 1st day of October 1860. This Act shall continue in force for five years from the said 1st day of October.*

* Extended to October 1. 1866 by Act VI. 1865, and again extended till otherwise ordered by the Governor-General in Council by Act VI. 1866 which repeals Act VI. 1865 and second clause of this Section.—This Section is repealed entirely by Act XIV of 1870.

ACT No. XXXIV OF 1860.

(Received the assent of the Governor-General on the 2nd August 1860.)

1. Certain fines, penalties, &c., imposed since 10th May 1857, to be deeme to have been duly imposed. Proviso.
2. Officers indemnified for certain acts done since 10th May 1857.

An Act to indemnify officers of Government and other persons in respect of fines and contributions levied and acts done by them during the late disturbances.

WHEREAS fines and penalties have been imposed and levied by officers of Government in respect of acts committed during the late disturbances, and whereas assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period and for other purposes ; and whereas it is expedient to indemnify all officers of Government and other persons acting under the authority of officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the 10th day of May 1857, in respect of the said fines, penalties, assessments, and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the Executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments, and contributions, and the said acts ; It is enacted as follows :—

Certain fines, penalties, etc., imposed since 10th May 1857 to be deemed to have been duly imposed.

I. All fines, penalties, assessments, and contributions imposed since the 10th day of May 1857 in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any officer of Government, or by any person acting under the authority of an officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government or shall have been or shall be ratified by the Executive Government ; and all officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments, and contributions, and levying the same, and no suit or proceeding shall be commenced or prosecuted in respect thereof. Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment, or contribution not already levied.

Proviso.

Officers indemnified for certain acts done since 10th May 1857.

II. All acts done since the 10th day of May 1857 in connection with the late disturbances by officers of Government, or by persons acting under their authority or otherwise, in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid ; and all such officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

ACT No. XLV OF 1860.

(Received the assent of the Governor-General on the 6th October 1860.)

THE INDIAN PENAL CODE.

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THE INDIAN PENAL CODE.

CHAPTER I.

WHEREAS it is expedient to provide a General Penal Code for British India; It is enacted as follows :—

1. This Act shall be called THE INDIAN PENAL CODE, and shall take effect on and from the 1st day of May 1861 throughout the whole of the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Title and extent of operation of the Code.

2. Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said Territories on or after the said 1st day of May 1861.

Punishment of offences committed within the said territories.

3. Any person liable, by any law passed by the Governor-General of India in Council, to be tried for an offence committed beyond the limits of the said Territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said Territories, in the same manner as if such act had been committed within the said Territories.

Punishment of offences committed beyond, but which by law may be tried within, the Territories.

4. Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions therof, of which he, whilst in such service, shall be guilty on or after the said 1st day of May 1861, within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company or which may have been or may hereafter be made in the name of the Queen by any Government of India.

Punishment of offences committed by a servant of the Queen within a Foreign allied State.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4, William IV. Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said Territories, or the inhabitants thereof; or any of the provisions of any Act for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty * * * * * or of any special or local law.

Certain laws not to be affected by this Act.

CHAPTER II.

GENERAL EXPLANATIONS.

6. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions," though those exceptions are not repealed in such definition, penal provision, or illustration.

Definitions in the Code to be understood subject to exceptions.

Illustrations.

(*a*) The Sections in this Code, which contain definitions of offences do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(*b*) A, a Police Officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement: for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

Expression once explained is used in the same sense throughout the Code.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

Gender.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

10. The word "man" denotes a male human being of any age: the word "woman" denotes a female human being of any age.

"Man." "Woman."

11. The word "person" includes any Company or Association or body of persons, whether incorporated or not.

"Person."

12. The word "public" includes any class of the public or any community.

"Public."

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"Queen."

14. The words "servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," or by or under the authority of the Government of India or any Government.

"Servant of the Queen."

15. The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"British India."

"Government of India"

16. The words "Government of India" denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him respectively.

"Government."

17. The word "Government" denotes the person or persons authorized by law to administer executive Government in any part of British India.

"Presidency."

18. The word "Presidency" denotes the Territories subject to the Government of a Presidency.

"Judge."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(a) A Collector exercising jurisdiction in a suit under Act X of 1859, is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal is a Judge.

(c) A Member of a Punchayet which has power, under Regulation VII. 1816 of the Madras Code, to try and determine suits, is a Judge.

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

"Court of Justice."

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration.

A Punchayet acting under Regulation VII. 1816 of the Madras Code, having power to try and determine suits, is a Court of Justice.

"Public Servant."

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :—

First. Every covenanted servant of the Queen;

Second. Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India, or any Government;

Third. Every Judge;

Fourth. Every Officer of a Court of Justice whose duty it is, as such Officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth. Every Juryman, assessor, or member of a Punchayet assisting a Court of Justice or public servant;

Sixth. Every Arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh. Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth. Every Officer of Government whose duty it is, as such Officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health safety, or convenience;

Ninth. Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every Officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty;

Tenth. Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town, or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1. Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2. Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to any thing which is attached to the earth. "Moveable property."

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled. "Wrongful gain."

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

24. Whoever does any thing with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly." "Dishonestly."

25. A person is said to do a thing fraudulently if he does that thing with intent to defrud, but not otherwise. "Fraudulently."

26. A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing, but not otherwise. "Reason to believe."

27. When property is in the possession of a person's wife, clerk, or servant, on account of that person, it is in that person's possession within the meaning of this Code. Property in possession of wife, clerk, or servant.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this Section.

28. A person is said to "counterfeit," who causes one thing to resemble another thing, intending by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practised. "Counterfeit."

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter. "Document."

Explanation. 1. It is immaterial by what means, or upon what substance the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A Cheque upon a Banker is a document.

A power of Attorney is a document.

A Map or Plan which is intended to be used, or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2. Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this Section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a Bill of Exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage is that the Bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder," or words to that effect, had been written over the signature.

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right. "Valuable security."

Illustration.

A writes his name on the back of a Bill of Exchange. As the effect of this endorsement is to transfer the right to the Bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

31. The words "a will" denote any testamentary document. "A will."

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions. Words referring to acts include illegal omissions.

"Act."
"Omission."

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well as a series of omissions as a single omission.

Each of several persons liable for an act done by all in like manner as if done by him alone.

34. When a criminal act is done by several persons, each of such persons is liable for that act in the same manner as if the act were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention, is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission.

36. Whenever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations.

(a) A and B agree to murder Z by severally, and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint Jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a Jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Several persons engaged in the commission of a criminal act may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

"Voluntarily."

39. A person is said to cause an effect "voluntarily," when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus cause the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet if he knew that he was likely to cause death, he has caused death voluntarily.

"Offence."

40. The word "offence" denotes a thing made punishable by this Code.*

"Special Law."

41. A "special law" is a law applicable to a particular subject.

"Local Law."

42. A "local law" is a law applicable only to a particular part of British India.

"Illegal." "Legally bound to do."

43. The word "illegal" is applicable to every thing which is an offence, or which is prohibited by law, or which furnishes ground for a civil action: and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

"Injury."

44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.

"Life."

45. The word "life" denotes the life of a human being, unless the contrary appears from the context.

"Death."

46. The word "death" denotes the death of a human being, unless the contrary appears from the context.

* See Act IV. 1867.

47. The word "animal" denotes any living creature other than a human being. "Animal."

48. The word "vessel" denotes any thing made for the conveyance by water of human beings, or of property. "Vessel."

49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar. "Year."

50. The word "Section" denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures. "Section."

51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not. "Oath."

52. Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention. "Good faith."

CHAPTER III.

OF PUNISHMENTS.

53. The punishments to which offenders are liable under the provisions of this Code are— Punishments.

First,—Death;
Secondly,—Transportation;
Thirdly,—Penal servitude;
Fourthly,—Imprisonment, which is of two descriptions, namely.
(*1.*) Rigorous, that is, with hard labor.
(*2.*) Simple.
Fifthly,—Forfeiture of property.
Sixthly,—Fine.*

54. In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code. Commutation of sentence of death.

55. In every case in which sentence of transportation for life shall have been passed, the Government of India, or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years. Commutation of sentence of transportation for life.

56. Whenever any person being a European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude, instead of transportation, according to the provisions of Act XXIV of 1855. Europeans and Americans to be sentenced to penal servitude instead of transportation

57. In calculating fractions of terms of punishment transportation for life shall be reckoned as equivalent to transportation for twenty years. Fractions of terms of punishment.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment. Offenders sentenced to transportation how to be dealt with until transportation.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment. In what cases transportation may be awarded instead of imprisonment.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall rigorous and the rest simple. Sentence may be in certain cases of imprisonment, wholly or partly rigorous or simple.

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned. Sentence of forfeiture of property.

Illustration.

A, being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst it is in force, A's father dies, leaving an estate which but for the forfeiture, would become the property of A. The estate becomes the property of Government.

* See Act VI. 1864 regarding the punishment of whipping.

Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment.

62. Whenever any person is convicted of an offence punishable with death, he Court may adjudge that all his property moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported, or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate during the period of his transportation or imprisonment shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

Amount of fine.

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

Sentence of imprisonment in default of payment of fine.

64. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence.

Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for such default.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Term of imprisonment for default in payment of fine, when the offence is punishable with fine only.

67. If the offence be punishable with fine only, the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case.

Such imprisonment to terminate upon payment of the fine.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid ot levied by process of law.

Termination of such imprisonment upon payment of proportional part of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied, that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred Rupees, and to four months imprisonment in default of payment. Here, if seventy-five Rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five Rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment. A will be immediately discharged. If fifty Rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty Rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine may be levied within 6 years, or at any time during the term of imprisonment..

Death of offender not to discharge his property from liability.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period then six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Limit of punishment of offence which is made up of several offences.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

(a) A gives Z fifty strokes with a stick. Here A may have committed, the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the Act wher by A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

Punishment of a person found guilty of one or several offences the judgment stating that it is doubtful of which.

72. In all cases in which Judgment is given that a person is guilty of one of several offences specified in the Judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided, if the same punishment is not provided for all.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say— Solitary confinement.

A time not exceeding one month, if the term of imprisonment shall not exceed six months.

A time not exceeding two months, if the term of imprisonment shall exceed six months and be less than a year.

A time not exceeding three months, if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods. Limit of solitary confinement.

75. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with the imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to double the amount of punishment to which he would otherwise have been liable for the same; Provided, that he shall not in any case be liable to imprisonment for a term exceeding ten years. Punishment of persons convicted, after previous conviction, of an offence punishable with three years imprisonment.

CHAPTER IV.

GENERAL EXCEPTIONS.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be bound by law to do it. Act done by a person bound, or by a mistake of fact believing himself bound by law.

Illustrations.

(a) A, a solider, fires on a mob by the order of his superior Officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an Officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law. Act of Judge when acting judicially.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction. Act done pursuant to the judgment or order of a Court of Justice.

79. Nothing is an offence which is done by any person who is justified by law, or who, by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be, justified by law in doing it. Act done by a person justified, or by mistake of fact believing himself justified, by law.

Illustration

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner, by lawful means, and with proper care and caution. Accident in the doing of a lawful act.

Illustration.

A is at a work with a hatchet; the head flies off and kills a man who is standing by. Here if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property. Act likely to cause harm, but done without a criminal intent and to prevent other harm.

Explanation.—It is a question of fact in such a case, whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustration.

(a.) A, the Captain of a Steam Vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with 20 or 30 passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only 2 passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he his not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

(b.) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under 7 years of age.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child above 7 and under 12 years of age who has not sufficient maturity of understanding.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he his doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law; Provided, that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent committed by one who is intoxicated.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

87. Nothing, which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence with each other for amusement. This agreement, implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play: and if A, while playing fairly, hurts Z, A commits no offence.

Act not intended to cause death, done by consent in good faith for the benefit of a person.

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

Act done in good faith for the benefit of a child or person of unsound mind, by or by consent of guardian.

89. Nothing, which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person: Provided—

Provisoes.

First. That this exception shall not extend to the intentional causing of death, or to the attempting to cause death.

Secondly. That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death, or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly. That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly. That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

90. A consent is not such a consent as is intended by any Section of this Code, if the consent is given by a person under fear of injury or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception—Or

Consent of a child or person of unsound mind.

If the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or, unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Acts which are offences independently of harm caused to the person consenting are not within the exceptions in Sections 87, 88, 89.

91. The exceptions in Sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm;" and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for the benefit of a person without consent.

Provisoes.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit. Provided—

First. That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly. That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly. That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt:

Fourthly. That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(a.) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b.) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit A's ball gives Z a mortal wound. A has committed no offence.

(c.) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d.) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation. Mere pecuniary benefit is not benefit within the meaning of Sections 88, 89, and 92.

Communication made in good faith.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats.

94. Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by

threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence ; Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing slight harm.

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

OF THE RIGHT OF PRIVATE DEFENCE.

Nothing done in private defence is an offence.

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of the body and of property.

97. Every person has a right, subject to the restrictions contained in Section 99, to defend—

First. His own body, and the body of any other person against any offence affecting the human body.

Secondly. The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

Right of private defence against the act of a person of unsound mind, &c.

98. When an act which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have, if the act were that offence.

Illustrations.

(*a.*) Z, under the influence of madness, attempts to kill A ; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(*b.*) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

Acts against which there is no right of private defence.

99. *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under color of his office, though that act may not be strictly justifiable by law.

Second.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under color of his office, though that direction may not be strictly justifiable by law.

Third.—There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.

Fourth.—The right of private defence in no case extends to the inflicting of of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction; or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

When the right of private defence of the body extends to causing death.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding Section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault—

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault—

Thirdly.—An assault with the intention of committing rape—

Fourthly.—An assault with the intention of gratifying unnatural lust—

Fifthly.—An assault with the intention of kidnapping or abducting—

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death.

101. If the offence be not of any of the descriptions enumerated in the last preceding Section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 99, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely—

First—Robbery.

Secondly.—House-breaking by night.

Thirdly.—Mischief by fire committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for the custody of property.

Fourthly.—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding Section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 99, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property.

105. *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Second.—The right of private defence of property against theft continues till the offender has effected his retreat with the property, or the assistance of the public authorities is obtained, or the property has been recovered.

Third.—The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

Fourth.—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

Fifth.—The right of private defence of property against house-breaking by night continues, as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against a deadly assault when there is risk of harm to an innocent person.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence, if by so firing he harms any of the children.

CHAPTER V.

OF ABETMENT.

Abetment of a thing.

107. A person abets the doing of a thing, who

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does any thing in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(a.) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b.) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(a.) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b.) A with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c.) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d.) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name, C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this Section, and is liable to the punishment for murder.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B, accepts the bribe. A has abetted the offence defined in Section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it; provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Liability of abettor when one act is abetted and a different act is done.

Proviso.

Illustrations.

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house, and, at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. If the act for which the abettor is liable under the last preceding Section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Abettor when liable to cumulative punishment for act abetted and for act done.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114. Whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abettor, present when offence is committed.

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by the Code for the punishment of such abetment, be punished with imprisonment of either description for a term

Abetment of an offence punishable with death or transportation for life, if the offence be not committed in

consequence of the abetment. If an act which causes harm be done in consequence of the abetment.

which may extend to seven years, and shall also be liable to fine; and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years, and also to a fine, and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment.

If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both; and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(a.) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this Section.

(b.) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this Section, and is punishable accordingly.

(c.) A, a police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d.) B abets the commission of a robbery by A, a police officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

Abetting the commission of an offence by the public, or by more than 10 persons.

117. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members, to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this Section.

Concealing a design to commit an offence punishable with death or transportation for life.

If the offence be committed.

If the offence be not committed.

118. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years: and in either case shall also be liable to fine.

Illustration.

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate, that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this Section.

A public servant concealing a design to commit an offence which it is his duty to prevent.

If the offence be committed.

If the offence be punishable with death, &c.

If the offence be not committed.

119. Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Illustration.

A, an officer of Police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this Section.

Concealing a design to commit an offence punishable with imprisonment.

If the offence be committed.

If not committed.

120. Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

Waging or attempting to wage war, or abetting the waging of war against the Queen.

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

Illustrations.

(*a.*) A joins an insurrection against the Queen. A has committed the offence defined in this Section.

(*b.*) A in India abets the insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

Collecting arms, &c., with the intention of waging war against the Queen.

122. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

Concealing, with intent to facilitate it, a design to wage war.

123. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.

124. Whoever, with the intention of inducing or compelling the Governor-General of India, or the Governor of any Presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor-General of India, or of the Council of any Presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Governor, Lieutenant-Governor or Member of Council, assaults, or wrongfully restraints, or attempts wrongfully to restrain, or overawes by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor-General, Governor, Lieutenant-Governor, or Member of Council, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Waging war against any Asiatic power in alliance with the Queen.

125. Whoever wages war against the Government of any Asiatic power in alliance or at peace with the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added; or with imprisonment of either description for a term which may extend to seven years, to which fine may be added; or with fine.

Committing depredation on the territories of any power at peace with the Queen.

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used, or intended to be used in committing such depredation, or acquired by such depredation.

Receiving property taken by war or depredation mentioned in Sections 125 and 126.

127. Whoever receives any property, knowing the same to have been taken in the commission of any of the offences mentioned in Sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Public servant voluntarily allowing prisoner of State or war in his custody to escape.

128. Whoever, being a public servant, and having the custody of any State Prisoner, or prisoner of War, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant negligently suffering Prisoner of State or War in his custody to escape.

129. Whoever, being a public servant, and having the custody of any State Prisoner or Prisoner of War, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Aiding escape of rescuing, or harbouring such prisoner.

130. Whoever knowingly aids or assists any State Prisoner or Prisoner of War in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the re-capture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State Prisoner or Prisoner of War, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.

Abetting mutiny, or attempting to seduce a soldier or sailor from his duty.

131. Whoever abets the committing of mutiny by an officer, soldier, or sailor, in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier, or sailor from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

132. Whoever abets the committing of mutiny by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office.

133. Whoever abets an assault by an officer, soldier or sailor, in the Army or Navy of the Queen, on any superior officer, being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to a fine.

Abetment of such assault, if the assault is committed.

134. Whoever abets an assault by an officer, soldier, or sailor in the Army or sailor in the Army or Navy of the Queen, on any superior officer, being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of the desertion of a soldier or sailor.

135. Whoever abets the desertion of any officer, soldier, or sailor in the Army or Navy of the Queen shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

Harbouring a deserter.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, or sailor in the Army or Navy of the Queen has deserted, harbours such officer, soldier, or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board a merchant vessel through negligence of master.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding Five Hundred Rupees, if he might have known of such concealment, but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of Act of insubordination by a soldier or sailor.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or or with fine, or with both.

Person subject to Articles of War not punishable under this Code.

139. No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this Chapter.

Wearing the dress of a soldier.

140. Whoever, not being a soldier in the Military or Naval service of the Queen, wears any garb, or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five hundred Rupees, or with both.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

Unlawful assembly.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly, is—

First. To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant-Governor, or any Public Servant in the exercise of the lawful power of such Public Servant; or

Second. To resist the execution of any law, or of any legal process; or

Third. To commit any mischief or criminal trespass, or other offence; or

Fourth. By means of criminal force, or show of criminal force to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth. By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

Being a member of an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment.

143. Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Joining an unlawful assembly armed with any deadly weapon.

144. Whoever, being armed with any deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Force used by one member in prosecution of the common object.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Punishment for rioting.

147. Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Rioting, armed with a deadly weapon.

148. Whoever is guilty of rioting, being armed with a deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Every member of an unlawful assembly to be held guilty of any offence committed in prosecution of common object.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is member of the same assembly, is guilty of that offence.

Hiring, or conniving at hiring of persons to join an unlawful assembly.

150. Whoever hires or engages or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of Section 141, the offender will be punishable under Section 145.

Assaulting or obstructing public servant when suppressing riot, &c.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly or to suppress a riot or affray, or uses, or threatens or attempts to use criminal force to such public servant, shall

be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Wantonly giving provocation, with intent to cause riot. If rioting be committed. If not committed.

153. Whoever malignantly or wantonly, by doing any thing which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Owner or occupier of land on which an unlawful assembly is held.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding One Thousand Rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest Police station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Liability of person for whose benefit a riot is committed.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit a riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

157. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge, or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot.

Or to go armed.

158. Whoever is engaged or hired or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Affray.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Punishment for the commission of an affray.

160. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to One Hundred Rupees, or with both.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

Public servant taking a gratification, other than legal remuneration, in respect of an official act.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favor or disfavor to any

person, or for rendering or attempting to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this Section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a.*) A, a Moonsiff, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favor of Z. A has committed the offence defined in this Section.

(*b.*) A, holding the office of Resident at the Court of a subsidiary power, accepts a lakh of Rupees from the Minister of that power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favor in the exercise of his official functions to that power. A has committed the offence defined in this Section.

(*c.*) A, a public servant induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z, to give A money as a reward for this service. A has committed the offence defined in this Section.

Taking a gratification, in order, by corrupt or illegal means, to influence a public servant.

162. Whoever accepts or obtains, or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of the Presidency, or with any Lieutenant-Governor, or with any public servant as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking a gratification for the exercise of personal influence with a public servant.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust—are not within this Section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of the offences above defined.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding Sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Public servant obtaining any valuable thing, without consideration, from person

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be con-

concerned in any proceeding or business transacted by such public servant.

cerned in any proceeding or business transacted, or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a*) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty Rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred Rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(*b*) A, a Judge, buys of Z, who has a cause pending in A's Court, Government Promissory Notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(*c*) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Public servant disobeying a direction of the law, with intent to cause injury to any person.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favor by a Court of Justice, knowingly disobeys that direction of law, with a knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury.

167. Whoever, being a public servant, and being as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade.

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Personating a public servant.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under color of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent.

171. Whoever, not belonging to certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Two Hundred Rupees, or with both.

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

Absconding to avoid service of summons or other proceeding from a public servant.

172. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant, legally competent, as such public servant, to issue such summons, notice, or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both; or, if the summons, notice, or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order, or intentionally prevents the lawful affixing to any place of any such summons, notice, or order, or intentionally removes any such summons, notice, or order from any place to which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees or with both; or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Preventing service of summons or other proceeding, or preventing publication thereof.

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both; or if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Hundred Rupees or with both.

Non-attendance in obedience to an order from a public servant.

Illustrations.

(a.) A, being legally bound to appear before the Supreme Court at Calcutta, in obedience to a subpœna issuing from that Court, intentionally omits to appear. A has committed the offence defined in this Section.

(b.) A, being legally bound to appear before a Zillah Judge, as a witness, in obedience to a summons issued by that Zillah Judge, intentionally omits to appear. A has committed the offence defined in this Section.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both; or if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Omission to produce a document to a public servant by a person legally bound to produce such document.

Illustration.

A, being legally bound to produce a document before a Zillah Court, intentionally omits to produce the same. A has committed the offence defined in this Section.

176. Whoever being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Omission to give notice or information to a public servant by a person legally bound to give notice or information.

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both; or if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Furnishing false information.

Illustrations.

(a) A landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the District that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this Section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound, under Clause 5, Section VII., Regulation III., 1821, of the Bengal Code, to give early and punctual information of the above fact to the

officer of the nearest Police Station, wilfully misinforms the Police Officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in this Section.

Refusing oath when duly required to take oath by a public servant.

178. Whoever refuses to bind himself by an oath to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Refusing to answer a public servant authorized to question.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Refusing to sign statement.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees, or with both.

False statement on oath to public servant or person authorized to administer an oath.

181. Whoever, being legally bound by an oath to state the truth on any subject to any public servant or other person authorized by law to administer such oath, makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False information, with intent to cause a public servant to use his lawful power to the injury of another person.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit any thing which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Illustrations.

(a.) A informs a Magistrate that Z, a police officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this Section.

(b.) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this Section.

Resistance to the taking of property by the lawful authority of a public servant.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of a public servant.

185. Whoever, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to Two Hundred Rupees, or with both.

Obstructing public servant in discharge of his public functions.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees, or with both.

Omission to assist public servant when bound by law to give assistance.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Two Hundred Rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully

issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to Five Hundred Rupees, or with both.

Disobedience to an order duly promulgated by a public servant.

188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Two Hundred Rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health, or, safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this Section.

Threat of injury to a public servant.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI.

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

Giving false evidence.

191. Whoever, being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

192. *Explanation* 1.—A statement is within the meaning of this Section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this Section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(*a*) A, in support of a just claim which B has against Z for one thousand Rupees, falsely swears on a trial that he heard Z admit the justice of B's claim, A has given false evidence.

(*b*) A, being bound by an oath to state the truth, states that he believes a certain signature to be the hand-writing of Z, when he does not believe it to be the hand-writing of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(*c*) A, knowing the general character of Z's hand-writing, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(*d*) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing any thing upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(*e*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

Fabricating false evidence.

192. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations.

(*a*) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(*b*) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(*c*) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's hand-writing, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence

Punishment for false evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court Martial or before a Military Court of Request is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of a capital offence.

If innocent person be thereby convicted and executed.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by this Code, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment.

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by this Code is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A therefore is liable to such transportation or imprisonment, with or without fine.

Using evidence known to be false.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing false certificate.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as a true certificate one known to be false in a material point.

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

False statement made in any declaration which is by law receivable as evidence.

200. Whoever corruptly uses or attempts to use as true any such declaration knowing the same to be false in any material point shall be punished in the same manner as if he gave false evidence.

Using as true any such declaration known to be false.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of Sections 199 and 200.

201. Whoever knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment of any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender.—If a capital offence.—If punishable with transportation.—If punishable with less than ten years imprisonment.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Intentional omission to give information of an offence by a person bound to inform.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Destruction of document to prevent its production as evidence.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

False personation for the purpose of any act or proceeding in a suit.

206. Whoever fraudulently removes, conceals, transfers, or deliver to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture, or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

207. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering a decree for a sum not due.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for any thing in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a large amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this Section.

Dishonestly making false claim in a Court of Justice.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently obtaining a decree for a sum not due.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for any thing in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False charge of offence made with intent to injure.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Harbouring an offender.

If a capital offence.

If punishable with transportation for life, or with imprisonment.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knwingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, &c., to screen an offender from punishment.

If a capital offence.

If punishable with transportation for life or with imprisonment.

213. Whoever accepts, or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the

offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in consideration of screening offender—

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that persons's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life or with imprisonment.

Exception.—The provisions of Sections 213 and 214 do not extend to any case in which the offence consists only of an act irrespective of the intention of the offender, and for which act the person injured may bring a civil action.

Illustrations.

(*a*) A assaults B with intent to commit murder. Here, as the offence does not consist of the assault only, irrespective of the intention to commit murder, it does not fall within the exception, and cannot therefore be compounded

(*b*) Assaults B. Here, as the offence consists simply of the act, irrespective of the intention of the offender, and as B may have a civil action for the assault, it is within the exception and may be compounded.

(*c*) A commits the offence of bigamy. Here, as the offence is not the subject of a civil action, it cannot be compounded.

(*d*) B commits the offence of adultery with a married a woman. The offence may be compounded.

Taking gift to help to recover stolen property, &c.

215. Whoever takes or agrees or consents to make any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring an offender who has escaped from custody, or whose apprehension has been ordered—

216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say, if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life or with imprisonment.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save or knowing it to be likely that he will thereby save any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save or knowing that he is likely thereby to save any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

218. Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause or knowing it to be likely that he will thereby cause loss or injury to the public or to any person, or with intent thereby to save or knowing it to be likely that he will thereby save any person from legal punishment, or with intent to save or knowing that

he is likely thereby to save any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend.

Punishment.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with or liable to be apprehended for an offence punishable with death ; or

With imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years ; or

With imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

Intentional omission to apprehend on the part of a Public Servant bound by law to apprehend person under sentence of a Court of Justice.

Punishment.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or keep in confinement any person under sentence of a Court of Justice for any offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

With transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death ; or

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended. is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards ; or

With imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement or who ought to have been apprehended is subject by a sentence of a Court of Justice to imprisonment for a term not extending to ten years.*

Escape from confinement negligently suffered by a public servant.

223. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.*

Resistance or obstruction by a person to his lawful apprehension.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this Section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

* See Section 2, Act IV of 1867.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction to the lawful apprehension of another person. Punishment.

Or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment, of either description for a term which may extend to seven years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

Unlawful return from transportation.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Violation of condition of remission of punishment.

228. Whoever intentionally offers any insult or causes any interruption to any public servant, while such public servant is sitting in any stage of a Judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.

229. Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled, or sworn, or, knowing himself to have been so returned, empanelled, or sworn, contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Personation of a juror or assessor.

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPRS.

230. Coin is metal used as money stamped and issued by the authority of some Government in order to be so used.

Coin.

Coin stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions, is the Queen's coin.

Queen's coin.

Illustration.

(a) Cowries are not Coin.
(b) Lumps of unstamped copper, though used as money, are not coin.
(c) Medals are not coin inasmuch as they are not intended to be used as money.
(d) The coin denominated as the Company's Rupee is the Queen's coin.

231. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting coin.

Explanation.—A person commits this offence, who, intending to practice deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Counterfeiting the Queen's coin.

232. Whoever counterfeits or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or selling instrument for counterfeiting coin.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Making or selling instrument for counterfeiting Queen's coin

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of instrument or material for the purpose of using the same for counterfeiting coin.

235. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting in India the counterfeiting out of India of coin.

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

Import or export of counterfeit coin.

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeits of the Queen's coin.

238. Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin, possessed with the knowledge that it is counterfeit.

239. Whoever, having any counterfeit coin which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of Queen's coin, possessed with the knowledge that it is counterfeit.

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which at the time when he became possessedof it he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin as genuine, which when first possessed the deliverer did not know to be counterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustrations.

A, a coiner, delivers counterfeit Company's Rupees to his accomplice B, for the purpose of uttering them. B, sells the Rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the Rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the Rupees, discovers that they are counterfeit, and pays them away as if they were good. Here D is punishable only under this Section, but B and C are punishable under Section 239 or 240 as the case may be.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and also be liable to fine.

Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Employee in a mint causing coin to be of a different weight or composition from that fixed by law.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking from a mint any coining instrument.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation. A person who scoops out part of the coin, and puts anything else into the cavity, alters the composition of that coin.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

247. Whoever, fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin.

248. Whoever, performs on any coin any operation which alters the appearance of that coin with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of any coin with intent that it shall pass as a coin of a different description.

249. Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.

250. Whoever, having coin in his possession with respect to which the offence defined in Section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

251. Whoever, having coin in his possession with respect to which the offence defined in Section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of Queen's coin possessed with the knowledge that it is altered.

252. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

253. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in Sections 246, 247, 248, or 249, has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Counterfeiting a Government stamp.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination

Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for the purpose of counterfeiting a Government stamp.

257. Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Goverment for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a counterfeit Government stamp.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Using as genuine a Government stamp known to be counterfeit.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Effecting any writing from a substance bearing a Government stamp, or removing from a document a Stamp used for it, with intent to cause loss to Government.

261. Whoever, fraudulently or with intent to cause loss to the Government removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Using a Government stamp known to have been before used.

262. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Erasure of mark denoting that Stamp has been used.

263. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.

Fraudulently use of false instrument for weighing.

264. Whoever fraudulently uses any instrument for weighing which he knows to be false shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently use of false weight or measure.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.

266. Whoever is in possession of any instrument for weighing, or of any weight or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weights or measures.

267. Whoever makes, sells, or disposes of, any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be

used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

Public nuisance.

268. A person is guilty of a public nuisance, who does any act, or is guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of any disease dangerous to life.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Malignant act likely to spread infection of any disease dangerous to life.

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disobedience to a quarantine rule.

271. Whoever, knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink which is intended for sale.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Adulteration of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Sale of adulterated drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Sale of any drug as a different drug or preparation.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Fouling the water of a public spring or reservoir.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees or with both.

Making atmosphere noxious to health.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in

the neighbourhood or passing along the public way, shall be punished with fine which may extend to Five Hundred Rupees.

Rash driving or riding on a public way.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Rash navigation of a vessel.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Exhibition of a false light, mark or bony.

281. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Conveying person by water for hire in a vessel overloaded or unsafe.

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Danger or obstruction in a public way or navigation.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to Two Hundred Rupees.

Negligent conduct with respect to any poisonous substance.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligent conduct with respect to any fire or combustible matter.

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligent conduct with respect to any explosive substance.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligence with respect to pulling down or repairing buildings.

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligence with respect to any animal.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Punishment for public nuisance.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to Two Hundred Rupees.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Continuance of nuisance after injuction to discontinue.

292. Whoever sells or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Sale &c. of obscene books.

Exception. This Section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any Temple, or on any car used for the conveyance of idols, or kept or used for any religious purpcse,

293. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding Section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Having in possession obscene book for sale or exhibition.

294. Whoever sings, recites, or utters in or near any public place any obscene song, ballad, or words to the annoyance or others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Obscene songs.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

295. Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Injuring or defiling a place of worship, with intent to insult the religion of any class.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Disturbing a religious assembly.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial places, &c.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or place any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words &c. with deliberate intent to wound the religious feelings of any person.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

OF OFFENCES AFFECTING LIFE.

299. Whoever causes death by doing an act with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Culpable homicide.

Illustrations.

(*a*) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(*b*) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(*c*) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly. If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly. If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly. If the person committing the act knows it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(*a*) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(*b*) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(*c*) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here, A is guilty of murder, although he may not have intended to cause Z's death.

(*d*) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who give the provocation, or causes the death of any other person by mistake or acident.

The above exception is subject to the following provisoes :—

First. That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly. That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly. That the provocation is not given by any thing done in the lawful exercise of the right of private defence.

Exception. Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder, is a question of fact.

Illustrations.

(*a*) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, in as much as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b*) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c*) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his power.

(*d*) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself A is moved to sudden passion by these words, and kills Z. This is murder.

(*e*) A attempts to pull Z's nose. Z, in the exercise of the right of private defence lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence,

and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f*) Z strikes B. B is by his provocation excited violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2. Culpable homicide is not murder, if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horse-whip A, in such manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3. Culpable homicide is not murder, if the offender, being a public servant, or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he in good faith believes to be lawful and necessary for the due discharge of his duty as such public servant, and without ill-will towards the person whose death is caused.

Exception 4. Culpable homicide is not murder, if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation. It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5. Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death, or takes the risk of death with his own consent.

Illustrations.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of B's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Culpable homicide by causing the death of a person other than the person whose death was intended.

301. If a person, by doing any thing which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Punishment for murder by a life convict.

303. Whoever being under sentence of transportation for life, commits murder, shall be punished with death.

Punishment for culpable homicide not amounting to murder.

304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life or imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Abetment of suicide of child of insane person.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide.

306. If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Attempt to murder.

307. Whoever does any act, with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned.

Illustrations.

(*a*) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this Section.

(*b*). A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this Section, though the death of the child does not ensue.

(*c*) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this Section; and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this Section.

(*d*) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this Section. A places the food on Z's table, or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this Section.

Attempt to commit culpable homicide.

308. Whoever does any act, with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder A has committed the offence defined in this Section.

Attempt to commit suicide.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, and shall also be liable to fine.

Thug.

310. Whoever at any time after the passing of this Act shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a Thug.

Punishment.

311. Whoever is a thug shall be punished with transportation for life, and shall also be liable to fine.

OF THE CAUSING OF MISCARRIAGE, OF INJURIES TO UNBORN CHILDREN, OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTHS.

Causing miscarriage.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both, and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation. A woman who causes herself to miscarry is within the meaning of this Section.

Causing miscarriage without woman's consent.

313. Whoever commits the offence defined in the last preceding Section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Death caused by an act done with intent to cause miscarriage — If act done without woman's consent.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act, which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above-mentioned.

Explanation. It is not essential to this offence that the offender should know that the act is likely to cause death.

Act done with intent to prevent a child being born alive or to cause it to die after birth.

315. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Causing death of a quick unborn child by an act amounting to culpable homicide.

316. Whoever does any act, under such circumstances that if he thereby cause death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which if it caused the death of the woman, would amount to culpable homicide. The woman is in

jured, but does not die; but the death of an unborn quick child with which she is pregnant, is thereby caused. A is guilty of the offence defined in this Section.

317. Whoever, being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exposure and abandonment of a child under twelve years by parent, or person having care of it.

Explanation. This Section is not intended to prevent the trial of the offender for murder or culpable homicide as the case may be, if the child die in consequence of the exposure.

318. Whoever by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Concealment of birth by secret disposal of dead body.

OF HURT.

319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

Hurt.

320. The following kinds of hurt only are designated as "grievous:"–

Grievous hurt.

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Voluntarily causing grievous hurt.

Explanation. A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to One Thousand Rupees, or with both.

Punishment for voluntarily causing hurt.

324. Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing hurt by dangerous weapons or means.

325. Whoever, except in the case provided by Section 335, voluntarily causes grivous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for voluntarily causing grievous hurt.

326. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison

Voluntarily causing grievous hurt by dangerous weapons or means.

or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort property or to constrain to an illegal act.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison &c., with intent to commit an offence.

328. Whoever administers to, or causes to be taken by any person, any poison or any stupefying, intoxicating or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort confession, or to compel restoration of property.

330. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustration.

(a) A, a Police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this Section.

(b) A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this Section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this Section.

(d) A, a zemindar, tortures a ryot in order to compel him to pay his rent. A is guilty of an offence under this Section.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to deter public servant from his duty.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of any thing done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing grievous hurt to deter a public servant from his duty.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt on provocation.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment

of either description for a term which may extend to one month, or with fine which may extend to Five hundred Rupees, or, with both.

Causing grievous hurt on provocation.

335. Whoever causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description, for a term which may extend to four years, or with fine which may extend to Two Thousand Rupees, or with both.

Explanation. The last two Sections are subject to the same provisoes as Exception 1, Section 300.

Punishment for act which endangers life or the personal safety of others.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Two Hundred and Fifty Rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to Five Hundred Rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to Two years, or with fine which may extend to One Thousand Rupees, or with both.

WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT.

Wrongful restraint.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception. The obstruction of a private way over land or water, which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this Section.

Illustrations.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z

Wrongful confinement.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Illustrations.

(*a*) A causes Z to go with in a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b*) A places men with fire-arms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for wrongful restraint.

341. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both.

Punishment for wrongful confinement.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to One year, or with fine which may extend to One Thousand Rupees, or with both.

Wrongful confinement for three or more days.

343. Whoever wrongfully confines any person for three days or more shall be punished with imprisonment of either description for a term which may extend to Two years, or with fine, or with both.

Wrongful confinement for ten or more days.

344. Whoever wrongfully confines any person for ten days or more shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement of person for whose liberation a writ has been issued.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other Section of this Code.

Wrongful confinement in secret.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to, or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement for the purpose

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined,

of extorting property or constraining to an illegal act.

any property or valuable security, or of constraining the person confined. or any person interested in such person, to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting confession, or of compelling restoration of property.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore, or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

OF CRIMINAL FORCE AND ASSAULT.

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling; Provided, that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(*a*) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*b*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion, A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(*c*) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(*d*) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(*e*) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(*f*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g*) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injure, fear, or annoyance to Z, A has used criminal force.

(*h*) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation. Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Illustration.

(*a*) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b*) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c*) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no cause amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

Punishment for using criminal force otherwise than on grave provocation.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees or with both.

Explanation. Grave and sudden provocation will not mitigate the punishment for an offence under this Section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence—or

If the provocation is given by any thing done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant—or

If the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Using criminal force to deter a public servant from discharge of his duty.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to a woman with intent to outrage her modesty.

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force with intent to dishonor a person, otherwise than on grave provocation.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonor that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to One Thousand Rupees, or with both.

Assaulting or using criminal force on grave provocation.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Two Hundred Rupees, or with both.

Explanation—The last Section is subject to the same explanation as Section 352.

OF KIDNAPPING, ABDUCTION, SLAVERY AND FORCED LABOR.

Kidnapping.

359. Kidnapping is of two kinds; kidnapping from British India, and kidnapping from lawful guardianship.

Kidnapping from British India.

360. Whoever conveys any person beyond the limits of British India without the consent of that person or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India.

Kidnapping from lawful guardianship.

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind,

out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation. The words "lawful guardian" in this Section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception. This Section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Punishment for kidnapping.

363. Whoever kidnaps any person from British India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting in order to murder.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a*) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this Section.

(*b*.) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this Section.

Kidnapping or abducting with intent secretly and wrongfully to confine a person.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting a woman to compel her marriage, &c.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.

367. Whoever, kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Wrongfully concealing or keeping in confinement a kidnapped person.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or keeps such person in confinement shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping or abducting child under ten years with intent to steal moveable property from the person of such child.

369. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing of any person as a slave.

370. Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual dealing in slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Selling of any minor for purposes of prostitution, &c.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Buying of any minor for purposes of prostitution.

373. Whoever buys, hires, or otherwise obtains possession of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

374. Whoever unlawfully compels any person to labor against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Unlawful compulsory labor.

OF RAPE.

375. A man is said to commit "rape," who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :— Rape.

First. Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fouathly. With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With or without her consent, when she is under ten years of age.

Explanation. Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception. Sexual intercourse by a man with his own wife, the wife not being under ten years of age, is not rape.

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Punishment for rape.

OF UNNATURAL OFFENCES.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Unnatural offences.

Explanation. Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this Section.

CHAPTER XVII.
OF OFFENCES AGAINST PROPERTY
OF THEFT.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft. Theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is served from the earth.

Explanation 2.—A moving, effected by the same act which effects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move every thing which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustration.

(*a*) A cuts down a tree on Z's ground with, the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(*b*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move A has committed theft of the treasure.

(*d*) A, being Z's servant, and intrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e*) Z going on a journey, entrusts his plate to A, the keeper of a ware house, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f*) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g*) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(*h*) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring commits theft.

(*i*) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j*) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k*) Again, if A having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l*) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(*m*) A being on friendly terms with Z, goes in to Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it and with the intention of returning it. Here it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n*) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o*) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p*) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

Punishment for theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Theft in dwelling house, &c.

380. Whoever commits theft in any building, tent, or vessel which building, tent, or vessel is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by clerk or servant of property in possession of master.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft after preparation made for causing death or hurt, in order to the committing of the theft.

382. Whoever commits theft, having made preparation for causing death or hurt, or restraint, or fear of death or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a*) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this Section.

(*b*) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this Section.

OF EXTORTION.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or any thing signed or sealed which may be converted into a valuable security, commits "extortion."

Illustration.

(*a*) A threatens to punish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b*) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(*c*) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induce Z to sign and deliver the bond. Z has committed extortion.

(*d*) A by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to Z. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear or attempts to put any person in fear of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Putting person in fear of injury in order to commit extortion.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Extortion by putting a person in fear of death or grievous hurt.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be one punishable under Section 377, may be punished with transportation for life.

Extortion by threat of accusation of an offence punishable with death or transportation, &c.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation against that person or any other, of having committed or attempted to commit, an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under Section 377, may be punished with imprisonment for life.

Putting person in fear of accusation of offence, in order to commit extortion.

OF ROBBERY AND DACOITY.

390. In all robbery there is either theft or extortion.

Robbery.

Theft is "robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint.

Extortion is "robbery," if the offender, at the time of committing the extortion, is in the presence of the person put in fear and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(*a*) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(*b*) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(*c*) A meets Z and Z's child on the high road. A takes the child and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(*d*) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand Rupees." This is extortion, and punishable as such; but it is not robbery unless Z is put in fear of the instant death of his child.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting, or aiding is said to commit "dacoity."

Dacoity.

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway between sun-set and sun-rise, the imprisonment may be extended to fourteen years.

Punishment for robbery.

Attempt to commit robbery.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing hurt in committing robbery.

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person, jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to a fine.

Dacoity with murder.

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine

Robbery or dacoity, with attempt to cause death or grievous hurt.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Attempt to commit robbery or dacoity when armed with deadly weapon.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon the imprisonment with which such offender shall be punished shall not be less than seven years.

Making preparation to commit dacoity.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to gang of dacoits.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a wandering gang of thieves.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing dacoity.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

OF CRIMINAL MISAPPROPRIATION OF PROPERTY.

Dishonest misappropriation of property.

403. Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a*) A takes property belonging to Z out of Z's possession, in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this Section.

(*b*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this Section.

(*c*) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this Section.

Explanation 1. A dishonest misappropriation for a time only is a misappropriation within the meaning of this Section.

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan intending at a future time to restore it to Z. A has committed an offence under this Section.

Explanation 2. A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence: but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations.

(*a*) A finds a Rupee on the high road, not knowing to whom the Rupee belongs. A picks up the Rupee. Here A has not committed the offence defined in this Section.

(*b*) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this Section.

(*c*) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favor the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this Section.

(*d*) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this Section.

(*e*) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this Section.

(*f*) A finds a valuable ring, not knowing to whom its belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this Section.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant Z before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A, has committed the offence defined in this Section.

OF CRIMINAL BREACH OF TRUST.

Criminal breach of trust.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

(*a*) A being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(*b*) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A under contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(*c*) A, residing in Calcutta, is agent for Z residing at Delhi. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction Z remits a lac of Rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(*d*) But if A in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the bank of Bengal for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(*e*) A a revenue officer, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(*f*) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment for criminal breach of trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Criminal breach of trust by carrier &c.

407. Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

408. Whoever being a clerk or servant, or employed as a clerk or servant and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by public servant or by banker, merchant, or agent.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

OF THE RECEIVING OF STOLEN PROPERTY.

Stolen property.

410. Property the possession whereof has been transferred by theft, or by robbery, and property which has been criminally misappropriated or in respect of which the offence of criminal breach of trust has been committed, is designated as "stolen property." But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Dishonestly receiving stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Dishonestly receiving property stolen in the commission of a dacoity.

412. Whoever dishonestly receives or retains any stolen property the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong, or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Habitually dealing in stolen property.

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assisting in concealment of stolen property.

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

OF CHEATING.

Cheating.

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he should not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to "cheat."

Explanation. A dishonest concealment of facts is a deception within the meaning of this Section.

Illustrations.

(*a*) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b*) A, by putting a counterfeit mark on an article intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(*c*) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(*d*) A, by tendering in payment for an article, a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e*) A by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f*) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

Cheating by personation.

416. A person is said to "cheat by personation," if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation. The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating and dishonestly inducing a delivery of property.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

421. Whoever dishonestly or fraudulently removes, conceals or delivers to any person or transfers or causes to be transferred to any person, without adequate consideration, any property intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

423. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

OF MISCHIEF.

Mischief.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of

any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits "mischief."

Explanation 1. It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2. Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a*) A, voluntarily burns a valuable security belongingt o Z, intending to cause wrongful loss to Z. A has committed mischief.

(*b*) A, introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committe mischief.

(*c*) A, voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d*) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e*) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(*f*) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(*g*) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h*) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Punishment for committing mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of Fifty Rupees.

427. Whoever commits mischief and thereby causes loss or damage to the amount of Fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of Ten Rupees.

428. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any animal or animals of the value of ten Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming cattle, &c. or any animal of the value of Fifty Rupees.

429. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of Fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

430, Whoever commits mischief by doing any act which causes or which he knows to be likely to cause a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, or river.

431. Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

432. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a light-house or sea-mark or by exhibiting false lights.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark or any sea-mark, or buoy, or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving &c. a land-mark fixed by public authority.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

435. Whoever commits mischief by fire or any explosive substance, intending to cause or knowing it to be likely that he will thereby cause damage to any property to the amount of one hundred Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees.

436 Whoever commits mischief by fire or any explosive substance, intending to cause or knowing it to be likely that he will thereby cause the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house, &c.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.

438. Whoever commits or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding Section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in the last Section when committed by fire or any explosive substance.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

440. Whoever commits mischief, having made preparation for causing to any person death or hurt or wrongful restraint, or fear of death or of hurt or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Mischief if committed after preparation made for causing death or hurt.

OF CRIMINAL TRESPASS.

441. Whoever enters into or upon property in the possession of another, with intend to commit an offence or to intimidate, insult, or annoy any person in possession of such property; or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence, is said to commit criminal trespass.

Criminal trespass.

442. Whoever commits criminal trespass by entering into or remaining in any building, tent, or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit "house-trespass."

House-trespass.

Explanation. The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit "lurking house-trespass.

Lurking house-trespass.

444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night."

Lurking house-trespass by night.

445. A person is said to commit "house-breaking," who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

House-breaking.

First. If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly. If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly. If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass, by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly. If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly. If he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault.

Sixthly. If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation. Any out-house or building occupied with a house and between which and such house there is an immediate internal communication, is part of the house within the meaning of this Section.

Illustrations.

(*a*) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(*b*) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(*c*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d*) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f*) A finds the key of Z's house door, which had lost and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(*g*) Z is standing in his door-way. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(*h*) Z, the door-keeper of Y, is standing in Y's door-way, A commits house-trespass by entering the house, having deterred Z from oposing him by threatening to beat him. This is house-breaking.

House-breaking by night.

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night."

Punishment for criminal trespass.

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees, or with both.

Punishment for house-trespass.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to One Thousand Rupees, or with both.

House-trespass in order to the commission of the offence punishable with death.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with transportation for life.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with imprisonment.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass after preparation made for causing hurt to any person.

452. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

453. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.

454. Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house trespass or house-breaking after preparation made for causing hurt to any person.

455. Whoever commits lurking house-trespass or house-breaking having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishable for lurking house-trespass or or house breaking by night.

456. Whoever commits lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

457. Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.

458. Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Lurking house trespass or house-breaking by night after preparation made for causing hurt to any person.

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

460. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons jointly concerned in house-breaking, &c., to be punishable for death or grievous hurt caused by one of their number.

461. Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Dishonestly breaking open any closed receptacle containing or supposed to contain property.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

463. Whoever makes any false document or part of a document with inten to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Forgery.

464. A person is said to make a false document.—

Making of false document.

First.—Who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document, was made, signed, sealed, or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed, or at a time, at which he knows that it was not made signed, sealed, or executed; or,

Secondly.—Who, without lawful authority, dishonestly or fraudulently by cancellation or otherwise alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or,

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

Illustrations.

(*a*) A has a letter of credit upon B for Rupees 10,000, written by Z. A, in order to defraud B, adds a cypher to the 10,0000, and makes the sum 100,000, intending that it may be believed by B that Z so wrote the letter A has committed forgery.

(*b*) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery.

(c) A picks up a cheque on a Banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand Rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a Banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand Rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand Rupees. B commits forgery.

(e) A draws a Bill of Exchange on himself in the name of B without B's authority, intending to discount it as a genuine Bill with a Banker and intending to take up the Bill on its maturity. Here, as A draws the Bill with intent to deceive the Banker by leading him to suppose that he had the security of B, and thereby to discount the Bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government Promissory Note and makes it payable to Z, or his order, by writing on the Bill the words "Pay to Z, or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order" and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an expressed or implied contract for service.

Explanation 1. A man's signature of his own name may amount to forgery.

Illustrations.

(a) A signs his own name to a Bill of Exchange, intending that it may be believed that the Bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a Bill of Exchange drawn by B upon Z and negotiate the Bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the Bill upon the paper pursuant to A's intention, B, is also guilty of forgery.

(c) A picks up a Bill of Exchange payable to the order of a different person of the same name. A endorses the Bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable: here A has committed forgery.

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, execute a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure with intent to defraud A and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name commits forgery, by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a color to the transaction writes a Promissory Note binding himself to pay to B a sum for value received and antedates the note intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2. The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person intending it to be believed that the document was made by the person in his life-time, may amount to forgery.

Illustration.

A draws a Bill of Exchange upon a fictitious person, and fraudulently accepts the Bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment for forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of a record of a Court of Justice, or of a public Register of Birth, &c.

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or a Register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

467. Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery of a valuable security or will.

468. Whoever commits forgery intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery for the purpose of cheating.

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term, which may extend to three years, and shall also be liable to fine.

Forgery for the purpose of harming the reputation of any person.

470. A false document made wholly or in part by forgery is designated "a forged document."

"A forged document."

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Using as genuine a forged document.

472. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under Section 467, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, for with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal plate, &c., with intent to commit a forgery, punishable under Section 467.

473. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any Section of this Chapter other than Section 467, or with such intent has in his possession any seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in Section 446, be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine; and if the document is one of the description mentioned in Section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a valuable security or will known to be forged with intent to use it as genuine.

475. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material

476. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpopse of authenticating any document other than the document described in Sectin 476, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents other than those described in Section 487, or possessing counterfeit marked material.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete, any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, &c., of a will.

OF TRADE AND PROPERTY-MARKS.

Trade-mark.

478. A mark used for denoting that goods have been made or manufactured by a particular person or at particular time or place, or that they are of a particular quality, is called a trade-mark.

Property-mark.

479. A mark used for denoting that moveable property belongs to a particular person, is called a property-mark.

Using of a false trade mark.

480. Whoever marks any goods, or any case, package, or other receptacle containing goods, or uses any case, package, or other receptacle with any mark thereon, with the intention of causing it to be believed that the goods so marked, or any goods contained in any such case, package, or receptacle so marked, were made or manufactured by any person by whom they were not made or manufactured, or that they were made or manufactured at any time or place at which they were not made or manufactured, or that they are of a particular quality of which they are not, is said to use a false trade-mark.

Using a false property mark.

481. Whoever marks any moveable property or goods, or any case, package, or other receptacle containing moveable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked belong to a person to whom they do not belong, is said to use a false property-mark.

Punishment for useing a false trade or property mark with intent to deceive or injure any person.

482. Whoever uses any false trade-mark or any false property-mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting a trade or property mark used by another with intent to cause damage or injury.

483. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any trade or property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.

484. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the same is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.

485. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property or trade-mark, with intent to use to the same for the purpose of counterfeiting such mark, or has in his possession any such property or trade-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandize were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Knowingly selling goods marked with a counterfeit property or trade-mark.

486. Whoever sells any goods with a counterfeit property or trade-mark whether public or private, affixed to or impressed upon the same or upon any case, wrapper or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to, or impressed upon any goods or merchandize not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently making a false mark upon any package or receptacle containing goods.

487. Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

488. Whoever fraudulently makes use of any such false mark with the intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding Section.

Defacing any property-mark with intent to cause injury.

489. Whoever removes, destroys, or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be

punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

Breach of contract of service during a voyage or journey.

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred Rupees, or with both.

Illustrations.

(*a*) A, a palanquin bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this Section.

(*b*) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another throws the baggage away. A has committed the offence defined in this Section.

(*c*) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this Section.

(*d*) A, by unlawful means, compels B, a cooly, to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

Explanation. It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly, by the person who is to perform the service.

Illustration.

A contracts with a Dak Company to drive his carriage for a month. B employs the Dak Company to convey him on a journey, and during the month the Company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this Section.

Breach of contract to attend on and supply the wants of helpless persons.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred Rupees, or with both.

Breach of a contract to serve at a distant place to which the servant is conveyed at the master's expense.

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or laborer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless the employer has ill-treated him or neglected to perform the contract on his part.

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him, to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during the life-time of husband or wife.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This Section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife at the time of the subsequent marriage

shall have been continually absent from such person for the space of seven years, and shall not have been heard of by shch person as being alive within that time, provided the person contracting such subsequent marriage, shall before such marriage takes place, inform the person with whom such marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.

495. Whoever commits the offence defined in the last preceding Section having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony gone through with fraudulent intent without lawful Marriage.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description of a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Enticing or taking away or detaining with a criminal intent a married woman.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals, or detains with that intens any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXI.

OF DEFAMATION.

Defamation.

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1. It may amount to defamation to impute any thing to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2. It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3. An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4. No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

(*a*) A says—" Z is an honest man ; he never stole B's watch ; " intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exception.

(*b*) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(*c*) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception. It is not defamation to impute any thing which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second Exception. It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception. It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustrations.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception. It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation. A Justice of the Peace or other Officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above Section.

Fifth Exception. It is not defamation to express in good faith any opinion whatever respecting the merits of any case, Civil or Criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

Illustrations.

(*a*) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this Exception if he says this in good faith; inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(*b*) But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity;"—A is not within this Exception inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception. It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation. A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a*) A person who publishes a book, submits that book to the judgment of the public.

(*b*) A person who makes a speech in public, submits that speech to the judgment of the public.

(*c*) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(*d*) A says of a book published by Z—"Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no farther.

(*e*) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception. It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustrations.

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court, a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his Bank for the conduct of such cashier as such cashier—are within this exception.

Eighth exception. It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation.

Illustration.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Ninth Exception. It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations.

(*a*) A shop keeper says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(*b*) A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith and for the public good, A, is within the exception

Tenth Exception. It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed or of some person in whom that person is interested, or for the public good.

Punishment for defamation.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter known to be defamatory.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

Criminal intimidation.

503. Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this Section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

Intentional insult with intent to provoke a breach of the peace.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the State.

505. Whoever circulates or publishes any statement, rumour, or report which he knows to be false, with intent to cause any officer, soldier, or sailor in the Army or Navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Punishment for criminal intimidation.

If threat be to cause death or grievous hurt &c.

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Criminal intimidation by an anonymous communication.

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding Section.

Act caused by inducing a person to believe that he will be rendered an object of the divine displeasure.

508. Whoever voluntarily causes or attempts to cause any person to do any thing which that person is not legally bound to do, or to omit to do any thing which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object the offender to cause him to omit, shall be

punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations.

(*a*) A sits dhurna at Z's door, with the intention of causing it to be believed that by so sitting he renders Z an object of divine displeasure. A has committed the offence defined in this Section.

(*b*) A threatens Z that unless Z performs a certain act. A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of divine displeasure. A has committed the offence defined in this Section.

Word or gesture intended to insult the modesty of a woman.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Misconduct in public by a drunken person.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten Rupees, or with both.

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES.

Punishment for attempting to commit offences punishable with transportation or imprisonment.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, were no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a*) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guity under this Section.

(*b*) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket: A is guilty under this Section.

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* ACT No. XLVI OF 1860.

(Received the assent of the Governor General on the 6th October 1860.)

1. *Acts repealed.*
2. *Nomination of Agents for Calcutta, Madras, and Bombay. Proviso.—*
3. *Powers of Agents.*
4. *Operations of recruitment..*
5. *Protector of Emigrants.*
6. *Contracts of service, with certain exceptions, to be made in India. Effect of contract.*
7. *Matters to be provided for in contract.*
8. *Emigrant ships to be licensed. Fee for license. Master of ship to give Bond. Penalty if ship be not licensed.*
9. *Master of vessel not to receive on board any Emigrant without a certificate. Certificate what to state, &c.*
10. *Protector to hold personal conference with every Emigrant before embarkation. Enquiries to be made in public.*
11. *Before Port-clearance, Master of Ship to obtain certificate from Emigration Agent stating—*
12. *Probable length of voyage.*

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* See Act VII of 1862.

13. Time of sailing.
14. Emigrant vessel to carry an European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.
15. Space to be set apart for Emigrants on Board-ship.
16. Amount or proportion of provisions to be carried by Emigrant vessel over and above the victualling of the crew. Proviso.
17. Before Port-clearance Master of vessel to obtain a Survey Certificate.
18. Up to what time Master of vessel to furnish Emigrants with provisions.
19. Emigrant vessel to carry copies and translations of the Regulations.
20. Master to deliver list to Emigration Agent.
21. Penalty for non-compliance with particulars required before clearance.
22. Penalty for taking on board, after clearance, Emigrants not entered in list.
23. Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.
24. Custom House Officers and Pilots to exercise, for the purposes of this Act certain powers vested in the former for the prevention of smuggling.
25. Custom House Officers and Pilots at Calcutta to countersign papers. To muster crew and passengers and Emigrants. Report of Emigrants on board. Penalty.
26. Punishment for forgery of document required by this Act.
27. Penalties how to be enforced.
28. Levy of fines.
29. Numerical proportion of women to men by each shipment.
30. Protector to have right of access to every part of the ship.
31. Act when to take effect.

An Act to authorize and regulate the Emigration of Native laborers to the French Colonies.

Whereas a Convention has been negotiated between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French comprising the following Articles:—

ARTICLE I.

The French Government shall be at liberty to recruit and engage laborers for the French Colonies in the Indian Territories belonging to Great Britain, and to embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall intrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of laborers for British Colonies.

ARTICLE IV.

The Frence Agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself either that the Emigrant is not a British subject or, if a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of

his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by Section 4 of Article IX, and by Section 2 of Article X, shall be made in India, and shall either bind the Emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VII.

The contracts shall, moreover, make stipulation for—

1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except in cases where in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI, of the present Convention.

ARTICLE IX.

1. The duration of the Immigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can shew that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the Immigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

ARTICLE X.

The Immigrant shall not be bound to work more than six days in seven, nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the laborer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

ARTICLE XI.

In British Ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

ARTICLE XII.

In the Ports of embarkation, the Emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the Depots, or other place in which they may be lodged, in order to communicate with the British Agents, who on their part may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessels using steam power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles, between the 1st of March and the 15th of the September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

ARTICLE XIV.

Every Emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of Emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

ARTICLE XV.

In every vessel employed for the conveyance of Emigrants, subjects of Her Majesty, the Emigrants shall occupy, either between decks, or in cabins on the uper-deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more, it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all laborers disembarked who are subjects of Her Britannic Majesty.

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

ARTICLE XX.

All Immigrants, being subjects of Her Britannic Majesty, shall in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy in the French Colonies, the right of claiming the assistance of the British Consular Agents, and no obstacle shall be opposed to the laborer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of laborers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No laborer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Immigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of immigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII.

The labor regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subject of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labor more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Re-Union, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to immigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI. *

I. Repealed by Act XIV. of 1870.

II. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras, and Bombay. Provided, that such person before, entering on the duties of his office under this Act, shall have been approved by her Majesty.

Nomination of Agents for Calcutta, Madras, and Bombay. Proviso.

III. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native laborers for all or any of the French Colonies aforesaid.

Powers of Agents.

IV. The said Emigration Agents shall act, in conformity with the regulations now or hereafter existing for the recruitment of Native laborers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and advantages afforded to the Emigration Agents for British Colonies.

Operations of recruitment.

V. The protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as protector of laborers emigrating under the provisions of this Act. In French Ports in India the duty confided to the British Consular Agents by Articles V of the said Convention shall be performed

Protector of Emigrants.

* Act VII 1862 substitutes another article for article XXVI and also cites two articles added to the convention after the passing of this Act.

under such instruction as may be given by the Governor General in Council on that behalf.

Contracts of service, with certain exceptions, to be made in India. Effect of contract.

VI. All contracts of service made with laborers emigrating under this Act, except the contracts mentioned in Section IV of article IX and Section II of article X of the above recited Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name or to serve a person to whom he shall be allotted by the proper authority on his arrival in the colony to which he emigrates.

Matters to be provided for in contract.

VII. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—

1. The duration of the engagement at the expiration of which the Emigrant shall receive a return passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except an cases where in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

5. In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI, of the Convention hereinbefore recited.

Emigrant ships to be licensed.

Fee for license.

Master of ship to give Bond.

Penalty if ship be not licensed.

VIII. It shall not be lawful to convey any Emigrant, being a native of India, who may embark for the purpose of laboring for hire in any one of the said Colonies from any of the three British Ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency in which the Port is situated. A fee, not exceeding 1 Rupee per Emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government ; and in consideration of such license the Master of every ship conveying or destined to convey Emigrants from India, shall execute a Bond binding him self and his owners in a penal sum of 10,000 Rupees to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the British Consular Agent at such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be embarked without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable as for a misdeameanor, to a fine of 100 Rupees for every such Emigrant so illegally embarked.

Master of vessel not to receive on board any emigrant without a certificate.

Certificate what to state. &c.

IX. It shall not be lawful for the Master of any vessel licensed as abovementioned to receive on board any Eminrant laborer, as above provided, unless such laborer shall have in his possession and shew a certificate or pass, to be given to him by the Emigration Agent of the Port under this Act, countersigned by the Protector of Emigrants, stating his name and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Protector to hold personal conference with every Emigrant before embarktion.

Enquiries to be made in public.

X. The Protector of Emigrants shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the Port or place for which such Protector shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud or by any false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark and that the real advantages likely to be derived from a removal to such Colony have been explained to such Emigrant, and that such Emigrant has been duly cautioned against unreasonable and unwarrantable expectations; and that every such Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or disease; provided that every such Protector shall make the enquiries specified in such Section in an open Court or public Office to which all persons shall have admission.

Before Port-clearance, Master of Ship to obtain certificate from Emigration Agent.

XI. Before ony ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid Ports for any of the Colonies aforesaid it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain

from the Protector of Emigrants at such Port as aforesaid, a certificate, under the hand of such Protector, to the effect following, that is to say—

First.—That such Protector has by personal communication done what is required on the part of such Protector by the last preceding Section of this Act.

Second.—That all the directions contained in this Act for ensuring the health and safety of passengers have been duly complied with.

Third.—That such rules have been complied with as the Governor-General in Council shall from time to time frame touching the Medical attendance and Medical stores and the proper clothing to be provided, the species of provisions suited to Native habits, the number of women that should accompany the Emigrants, or other matters.

Probable length of voyage.

XII. The probable lengths of the voyages to the several French Colonies from the Ports aforesaid shall be deemed for the purposes of this Act to be as follows :—

From the Port of Calcutta to Re-Union—

Between the months of April and October inclusive, ten weeks.

Between the months of November and March inclusive, eight weeks.

From the Port of Madras—

Between the months of April and October inclusive, seven weeks.

Between the months of November and March inclusive, five weeks.

From the Port of Bombay—

Between the months of April and September inclusive, five weeks ; and between the months of October and March inclusive, six weeks.

From the Port of Calcutta to Martinique, Gaudeloupe and its dependencies twenty weeks.

From the Port of Madras. nineteen weeks.

From the Port of Bombay, nineteen weeks.

From the Port of Calcutta to Guiana, twenty-six-weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

Provided that the Governor-General of India in Coucil may, by order to be published in the Calcutta Gazette, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the above recited Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony. Such declaration shall have the same force and effect as if it formed part of this Section.

Time of sailing.

XIII. *Clause* 1.—Emigrants may leave India for the French Colonies to the East of the Cape of Good Hope at all times of the year.

Clause 2. For the other French Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels ; vessels using steam power may leave at any time of the year.

Clause 3—Every Emigrant sailing from India for any French Colony Westward of the Cape of Good Hope between the 1st of March and the 15th of September shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

Emigrant vessel to carry an European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.

XIV. Every Emigrant vessel must carry an European Surgeon and an interpreter. The Master of every Emigrant vessel shall be bound to take charge of any despatch which may be delivered to him by the Protector of Emigrants at the Port of embarkation, for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

Space to be set apart for Emigrants on board-ship.

XV. *Clause* 1.— In every vessel employed for the conveyance of Emigrants, the Emigrants shall occupy, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of five feet and a half.

Clause 2. No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal, and for every cubic space of sixty feet in the Presidencies of Bombay and Madras.

Clause 3. An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

Clause 4. A place shall be fitted up for a hospital in every Emigrant ship.

Clause 5. Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

Amount or proportion of provisions to be carried by Emi-

XVI. There shall be actually laden on board of every ship or vessel conveying Emigrants into any of the Colonies aforesaid at the time of departure of such ship or vessel from the Port at which such laborers shall be embarked,

grant vessel over and above the victualling of the crew.

good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following : that is to say—a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks ; and a supply of rice, bread biscuit, flour, oatmeal, or bread stuffs to the amount of seven pounds' weight to every week of the computed voyage for every such passenger. Provided always that, when any such ship or vessel shall be destined to call at a Port or place in the course of a voyage for the purpose of filing up her water casks, a supply of water at the rate before-mentioned for every week of an average voyage to such Port or place of calling shall be deemed to be a compliance with this Regulation ; and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor-General of India in Council, any other articles of food were substituted for the articles above enumerated, as being in his judgment equivalent thereto. Provided also that when any such ship or vessel is fitted with Normandy's apparatus for distilling sea-water, a reduction shall be allowed of one-third in the quantity of water required to be provided as aforesaid.

Proviso.

Before Port-clearance Master of vessel to obtain a Survey Certificate.

XVII. Before any such ship or vessel shall be cleared out on any such voyage, the Protector of Emigrants at the Port or place from which such ship or vessel shall be cleared out, shall survey or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that, over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Up to what time Master of vessel to to furnish Emigrants with provisions.

XVIII. The Master of every ship or vessel conveying Emigrants to any of the said Colonies shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Emigrant vessel to carry copies and translations of these Regulations.

XIX. Two copies of Section X to XX inclusive of this Act, and two copies of a translation thereof in such Native language as the Local Government may direct, authenticated by the signature of the protector of Emigrants at the Port or place at which such Emigrants shall embark, shall be delivered to the Master by such Protector at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations shall, upon request made at any reasonable time to the Master of the ship or vessel, be produced to any passenger for his perusal.

Master to deliver list to Emigration Agent.

XX. The Master of every ship or vessel carrying Emigrants from India to any of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to the protector of Emigrants at the Port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations, of all and every the Emigrants on board such ship or vessel, and such Protector shall thereupon deliver to the said Master the counterpart of such list signed by such Protector ; and the said Master shall, on the arrival of such ship or vessel at the place of destination, and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the British Consular Agent at the Colony at which the said ship or vessel may have arrived.

Penalty for non-compliance with particulars required before clearance.

XXI. If the Master of any ship or vessel shall, at any of the Ports aforesaid, take on board such ship or vessel any Emigrant laborer of the description aforesaid, and shall clear such ship or vessel for any of the said Colonies without having fully complied with every particular herein required previously to clearance, he shall be liable, on conviction before any Magistrate or justice of the peace, to a penalty not exceeding 200 Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

XXII If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for any of the said Colonies, take on board any such Emigrant laborer as aforesaid without having entered such Emigrent laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such Emigrant prior to clearance, he shall be

liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding 500 Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

XXIII. If any Master of any ship or vessel cleared for any of the said Colonies as aforesaid shall, after having obtained such certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such Master shall be liable on conviction to a penalty not exceeding 5,000 Rupees, besides incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the prevention of smuggling.

XXIV. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for any of the said Colonies and of other offences against this Act; and all Pilots in the service of the Government of India shall be invested with the same powers and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officer and Pilots at Calcutta to countersign papers.

XXV. Whenever a vessel shall clear from Calcutta for any of the said Colonies with Emigrant laborers duly embarked thereon, the Customs Officer on Board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant laborer and shall keep a register of every such Emigrant laborer as may come on board. And such Customs Officer shall remain on board such vessel until she shall arrive in Saugor Roads, and shall not come away until muster of the crew and passengers and Emigrant laborers has been made in his presence and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in the last preceding Section of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant laborers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete report of the Emigrant laborers on board of any ship at the time of his quitting the same; and such report shall contain a declaration that to the best of the declarant's belief no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster (if any) shall be transmitted without delay to the Protector of Emigrants at the Port. And any Custom House Officer or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrant laborers on board of any ship or who shall connive at the unauthorized embarkation of any such Emigrant laborers, shall be liable, besides dismissal, to a fine of 5,000 Rupees commutable if not paid to imprisonment in the Civil Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

To muster crew and passengers and Emigrants.

Report of Emigrants on board.

Penalty.

Punishment for forgery of document required by this Act.

XXVI. If any person shall forge, or shall use knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Penalties how to be enforced.

XXVII. All the several penalties to which the Masters of ships or vessels are liable by this Act shall be enforced by information laid before any Magistrate or Justice of the Peace at the instance of the Protector of Emigrants, or of any Officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Levy of fines.

XXVIII. All fines and penalties imposed by a Magistrate or Justice of the Peace under the authority of this Act, if no other means for enforcing the payment of such fines and penalties are provided by this Act, may in case of non-payment thereof be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate or Justice. When a warrant of distress is issued, the Magistrate or Justice may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if before issuing such warrant of distress it shall appear to the Magistrate or Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate or Justice whereon to levy such fine or

penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency aforesaid shall be made to appear to the Magistrate or Justice, he shall, by warrant, commit the offender to jail, there to be imprisoned, according to the description of the Magistrate or Justice, for any term not exceeding two months where the amount of the fine shall not exceed 50 Rupees, and for any term not exceeding four months where the amount shall not exceed 100 Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Numerical proportion of women to men by each shipment.

XXIX. Each shipment of Emigrants under this Act shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as has been or may be fixed for the British Colonies.

Protector to have right of access to every part of the ship.

XXX. The Protector of Emigrants shall have at all reasonable times the right of access to every part of every ship which is appropriated to the use of Emigrants under this Act.

Act when to take effect.

XXXI. This Act shall take effect as to the Emigration of Native laborers from India to the number of not more than six thousand to the Island of Re-Union, from the time of the passing thereof, and shall take effect generally as to Emigration to the said Island and to Martinique, Gaudeloupe and its dependencies, and Guiana, from the time when the Convention herein recited and set forth shall have been concluded and signed and shall take effect, and as to Emigration to any other French Colony, from such date as the Governor-General in Council in extending this Act to such Colony shall determine. From the time this Act shall so take effect, it shall continue in force so long as the said Convention shall continue in force and no longer. Provided that Act XIX of 1856 (*to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native laborers*) shall have full force and effect in respect to the Emigration of Native laborers to any or all of the French Colonies under this Act.

ACT No. XLVII OF 1860.

(Received the assent of the Governor-General on the 6th October 1860.)

1. *Power of Universities to confer Degrees.*
2. *Construction.*

An Act for giving to the Universities of Calcutta, Madras, and Bombay the power of conferring Degrees in addition to those mentioned in Acts II, XXII, and XXVII of 1857.

WHEREAS it is expedient to give to the Universities of Calcutta, Madras, and Bombay, established under Acts II, XXII, XXVII of 1857, the power of conferring Degrees other than the Degress in that Act expressly provided for; It is enacted as follows:—

Power of Universities to confer Degrees.

I. It shall be competent to the Chancellor, Vice Chancellor, and Fellows of the Universities of Calcutta, Madras, or Bombay respectively to confer such Degrees and to grant such Diplomas or Licenses in respect of Degrees as the said Chancellor, Vice Chancellor, and Fellows of any such University shall have appointed or shall appoint by any Bye-laws or Regulations made and passed or to be made or passed by them in the manner provided in the said Acts, and submitted to and approved by the Governor General in Council as far as regards the University of Calcutta, or by the Governor in Council of Madras or Bombay as regards the Universities of Madras and Bombay respectively.

Construction.

II. All the provisions contained in the said Acts II, XXII, and XXVII, of 1857, with respect to the Degrees therein mentioned and to the examinations for those Degrees shall apply to any Degrees which may be conferred under this Act and to the examinations for such Degrees.

ACT No. L OF 1860.

(Received the assent of the Governor-General on the 26th December 1860.)

1. Laws repealed.
2. Sudder Courts to prepare and publish an annual list of Holidays to be observed.

An Act to amend the Law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal.

WHEREAS it is expedient to amend the Law relating to Vacations observed in the Civil Courts within the Presidency of Fort William in Bengal; It is enacted as follows:—

I. *Repealed by Act XIV. of 1870.*

II. Subject to such orders as may from time to time be issued by the Governor-General of India in Council or by the Local Government, the Courts of Sudder Dewanny in the Presidency aforesaid shall prepare a list of days to be observed in each year as close Holidays in such Courts and in the Courts respectively subordinate to them, and such list shall be ordinarily published at the commencement of each year in the Official Gazette of the presidency or place in which each Sudder Court is held.

Sudder Courts to prepare and publish an annual list of Holidays to be observed.

ACT No. LII OF 1860.

(Received the assent of the Governor-General on the 26th December 1860.)

1. Police Magistrate may in certain cases try offences punishable under Sections XXVII and XXVIII Act XVIII of 1854 with imprisonment.
2. Extent of jurisdiction.
3. Construction.

An Act to amend Act XVIII of 1854 (*relating to Railways in India*).

WHEREAS it is expedient to amend the law relating to offences declared to be punishable under Act XVIII of 1854 (*relating to Railways in India*) on conviction before a Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay; It is enacted as follows:—

I. If any person is charged before a Police Magistrate of a Presidency Town with committing any offence which under Section XXVII or Section XXVIII of Act XVIII of 1854 is punishable on conviction with imprisonment, and if such Police Magistrate shall deem it probable that, in consequence of the probable departure of any material witness from the local limits of the jurisdiction of such Magistrate, the prosecution of such offender by indictment in the Supreme Court will be ineffectual, such Magistrate may try the offender, and on conviction may award a sentence not exceeding six month's imprisonment with or without hard labor.

Police Magistrate may in certain case try offences punishable under Sections XXVII and XXVIII Act XVIII of 1854 with imprisonment.

II. The jurisdiction given to Police Magistrates under the foregoing Section may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not, and any persons hereby made punishable by a Police Magistrate shall be punishable upon summary conviction, but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Police Magistrate before whom the offender is charged.

Extent of jurisdiction.

III. This Act shall be taken to be, and shall be read as part of Act XVIII of 1854.

Construction.

ACT No. V OF 1861. *

(Received the assent of the Governor-General on the 22nd March 1861.)

1. *Interpretation.*
2. *Constitution of the Force.*
3. *Superintendence of the Local Government.*
4. *Inspector General of Police, &c.*
5. *Inspector General to have powers of a Magistrate. To exercise them under the orders of Government.*
6. *Deputy Inspectors-General &c. may be vested with powers of a Magistrate. In what cases those powers shall be exercised.*
7. *Inspector General &c. to appoint and dismiss.*
8. *Police Officers to receive certificates of Office.*
9. *Police Officers not to resign without leave or two months' notice.*
10. *Police Officers not to engage in other employment.*
11. *Police Superannuation Fund. Proviso.*
12. *Inspector General to make Rules.*
13. *Additional Police Officers employed at the cost of individuals.*
14. *Appointment of additional Force in the neighbourhood of Railway and other works.*
15. *Quartering of additional Police in disturbed or dangerous Districts.*
16. *Payment of money for support of additional Police Force.*
17. *Special Police Officers.*
18. *Powers of Special Police Officers.*
19. *Refusal to serve as Special Police Officers.*
20. *Authority to be exercised by Police Officers.*
21. *Village Police Officers.*
22. *Police officers to be considered always on duty and may be employed in any part of the General Police District.*
23. *Duties of Police Officers.*
24. *Police Officers may lay informations, &c.*
25. *Police Officers to take charge of unclaimed property, and to be subject to Magistrate's orders as to the disposal of it.*
26. *Magistrate may detain property and issue proclamation.*
27. *Confiscation of property if no claimant appear.*
28. *Persons refusing to deliver up certificate &c. on ceasing to be Police Officers.*
29. *Penalties for neglect of duty, &c.*
30. *Regulation of public procession, &c.*
31. *Police to keep order in public roads, &c.*
32. *Penalty for disobeying orders issued under last two Sections, &c.*
33. *Control of the Magistrate of the District under last three Sections.*
34. *Certain duties of Police Officers. Obstructions and nuisances in roads.*
35. *Jurisdiction. Proviso.*
36. *Power to prosecute not affected. Proviso.*
37. *Levy of forfeiture and penalties by distress.*
38. *Procedure until return is made to warrant of distress.*
39. *Imprisonment if distress not sufficient.*
40. *Levy of fines from European British Subjects.*
41. *Rewards to Police and informers payable to General Police Fund.*
42. *Limitation of action. Tender of amends. Proviso.*
43. *Plea that act was done under a warrant. Proviso.*
44. *Police Officers to keep a Diary.*
45. *Local Government empowered to prescribe the form of Returns.*
46. *Scope of Act.*
47. *Authority of District Superintendent of Police over Village Police.*

An Act for the Regulation of Police.

WHEREAS it is expedient to re-organize the Police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows:—

* In the provinces under the control of the Lieutenant Governor of Bengal Act VII. 1869 B. C. is to be read with and as part of this Act.

Interpretation.

I. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is it say :—

The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with such executive administration is styled.

The word "Magistrate" shall include all persons within the General Police District, exercising all or any of the powers of a Magistrate.

The word "Police" shall include all persons who shall be enrolled under this Act.

The words "General Police District" shall embrace any Presidency, Province, or place, or any part of any Presidency, Province, or place in which this Act shall be ordered to take effect.

The word "Property" shall include any moveable property, money, or valuable security.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "person" shall include a Company or Corporation.

The word "month" shall mean a calendar month.

The word "cattle" shall besides horned cattle, include Elephants, Camels, Horses, Asses, Mules, Ship, Goats, and Swine.

II. Repealed, as regards the Provinces under the Control of the Lieutenant Governor of Bengal by Act VII. 1869 B. C.

Superintendence of the Local Government.

III. The superintendence of the Police throughout a General Police District shall vest in, and, subject to the general control of the Governor-General of India in Council, shall be exercised by the Local Government to which such District is subordinate; and except as authorized under the provisions of this Act, no person, Officer, or Court shall be empowered by the Local Government to appoint, supersede, or control any Police functionary.

Inspector General of Police, &c.

IV. The administration of the Police throughout a General Police District shall be vested in the Officer to be styled the Inspector General of Police, and in such Deputy Inspectors General, and Assistant Inspectors General, as to the Local Government shall seem fit. The administration of the Police throughout the local jurisdiction of the Magistrate of the District shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the Local Government shall consider necessary. The Inspector General and other Officers above-mentioned shall from time to time be appointed by the Local Goverment, and may be removed by the same authority.

Inspector General to have powers of a Magistrate. To exercise them under the orders of Government.

V. The Inspector General of Police shall have the full powers of a Magistrate throughout the General Police District; but shall exercise those powers subject to such limitation as may from time to time be imposed by the Local Government.

Deputy Inspectors General &c. may be vested with powers of a Magistrate.

In what cases these powers shall be exercised.

VI. The Local Government may vest any Deputy Inspector General, Assistant Inspector General, District Superintendent, or Assistant District Superintendent of Police with all or any of the powers of a Magistrate within such limits as it may deem proper; but such officers respectively shall exercise the powers with which they shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension, and detention of offenders in order to their being brought before a magistrate, and, so far as may be necessary, for the performance of the duties assigned to them by this Act.

Inspector General &c. to appoint and dismiss.

VII. The appointment of all Police Officers other than those mentioned in Section IV of this Act shall, under such rules as the Local Government shall from time to time sanction, rest with the Inspector General, Deputy Inspectors General, Assistant Inspectors General, and Districts Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend, or reduce any Police Officer whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same, or fine any Police Officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof.

Police Officers to receive certificates of Office.

VIII. Every Police Officer, so appointed, shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector General or such other Officer as the Inspector General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and

privileges of a Police Officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed or otherwise removed from employment in the Police force, and shall be immediately surrendered to the Superior Officer of such person or to some other Officer empowered to receive the same.

Police Officers not to resign without leave or two months' notice.

IX. No Police Officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superindendent or by some other Officer authorized to grant such permission, or, without the leave of the District Superindent, to resign his Office unless he shall have given to his Superior Officer notice in writing, for a period of not less than two months, of his intention to resign.

Police Officers not to engage in other employment.

X. No Police Officer shall engage in any employment or Office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector General.

XI. Repealed by Act X. 1869.

Inspector General to make Rules.

XII. The Inspector General of Police may, from time to time, subject to the approval of the Local Government, frame such orders and rules as he shall deem expedient, relative to the organization, classification, and distribution of the Police Force, the places at which the Members of the Force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements, and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the Police Force as the Inspector General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such Force efficient in the discharge of its duties.

Additional Police Officers employed at the cost of individuals.

XIII. It shall be lawful for the Inspecter General of Police, or any Deputy Inspector General, or Assistant Inspector General, or for the District Superintendent, subject to the general direction of the Magistrate of the District, on the application of any person showing the necessity thereof, to depute any additional number of Police Officers to keep the peace at any place within the General Police District, and for such time as shall be deemed proper. Such Force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application. Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General, Deputy Inspector General, or Assistant Inspector General or to the District Superintendent to require that the Police Officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional Force from the expiration of such notice.

Appointment of additional Force in the neighbourhood of Railway and other works.

XIV. Whenever any Railway, Canal, or other public work, or any manufactory or commercial concern, shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector General that the employment of an additional Police Force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory, or concern, it shall be lawful for the Inspector General, with the consent of the Local Government, to depute such additional Force to such place, and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the Funds used in carrying on such work, manufactory, or concern, for the payment of the extra Force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering of additional Police in disturbed or dangerous Districts.

XV. It shall be lawful for the Inspector General of police, with the sanction of the Local Government, to be notified by proclamation in the *Government Gazette*, and in such other manner as the Local Government shall direct, to employ any Police Force in excess of the ordinary fixed complement to be quartered in any part of the General Police District which shall be found to be in a disturbed or dangerous state, or in any part of the General Police District in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of of Police. The inhabitants of the part of the country described in the notification shall be charged with the cost of such additional Police Force, and the Magistrate of the District, after enquiry if necessary, shall assess the proportion in which the amount is to be paid by the inhabitants according to his judgment of their respective means.

Payment of money for support of additional Police Force.

XVI. All monies payable under the last three preceding Sections, on account of any additional Police Force employed as therein directed, shall be recoverable under the warrant of a Magistrate, by distress and sale of the goods of the defaulter within the District of such Magistrate, or by suit in any competent Court; and the monies paid on this account or so recovered shall be credited to a Fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police force under such orders as the Local Government shall pass.

XVII. When it shall appear that any unlawful assembly or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the Police Force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly or riot, or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any Police Officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such Police Officer, may require to act as special Police Officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

Special Police Officers.

XVIII. Every Special Police Officer so appointed shall have the same powers, privileges, and protection and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities as the ordinary Officers of Police.

Powers of Special Police Officers.

XIX. If any person being appointed a Special Police Officer as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate to a fine not exceeding fifty Rupees for every such neglect, refusal, or disobedience.

Refusal to serve as Special Police Officers.

XX. Police officers, enrolled under this Act, shall not exercise any authority, except the authority provided for a Police Officer under this Act and any Act which shall hereafter be passed for regulating Criminal Procedure.

Authority to be exercised by Police Officers.

XXI. Nothing in this Act shall effect any Hereditary or other Village Police Officer, unless such Officer shall be enrolled as a Police Officer under this Act. When so enrolled such Officer shall be bound by the provisions of the last preceding Section. No Hereditary or other Village Police Officer shall be enrolled without his consent and the consent of those who have the right of nomination. If any Police Officer appointed under Act XX of 1856 *(to make better provision for the appointment and maintenance of Police Chowkeedars in Cities, Towns, Stations, Suburbs, and Bazars in the presidency of Fort William in Bengal)* is employed out of the District for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that District.

Village Police Officers.

XXII. Every Police Officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a Police Officer in any part of the General Police District.

Police Officers to be considered always on duty and may be employed in any part of the General Police District.

XXIII. It shall be the duty of every Police Officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice; and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists: and it shall be lawful for every Police Officer, for any of the purposes mentioned in this Section, without a warrant, to enter and inspect any drinking shop, gaming house, or other place of resort of loose and disorderly characters.

Duties of Police Officers.

XXIV. It shall be lawful for any Police Officer to lay any information before a Magistrate, and to apply for a summons, warrant, search warrant, or such other legal process as may by law issue against any person committing an offence, and to prosecute such person up to final judgment.

Police Officer may lay informations, &c.

XXV. It shall be the duty of every Police Officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the District. The Police Officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the District.

Police Officers to take charge of unclaimed property, and to be subject to Magistrate's orders as to the disposal of it.

XXVI. The Magistrate of the District may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

Magistrate may detain property and issue proclamation.

XXVII. If no person shall within the period allowed claim such property, it may be sold under the orders of the Magistrate of the District and the proceeds shall be at the disposal of Government.

Confiscation of property if no claimant appear.

XXVIII. Every person, having ceased to be an enrolled Police Officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointment, and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magis-

Persons refusing to deliver up to certificate &c., on ceasing to be Police Officers.

trate, to a penalty not exceeding Two Hundred Rupees, or to imprisonment, with or without hard labor, for a period not exceeding six months, or to both.

Penalties for neglect of duty, &c.

XXIX. Every Police Officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent Authority; or who shall withdraw from the duties of his Office without permission, or without having given previous notice for the period of two months; or who shall engage without authority in any employment other than his Police duty; or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labor, for a period not exceeding three months, or to both.

Regulation of public procession, &c.

XXX. The district Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets, or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass. They may also regulate the use of music in the streets on the occasion of festivals and ceremonies.

Police to keep order in public roads, &c.

XXXI. It shall be the duty of the Police to keep order on the public roads, and in the public streets, thoroughfares, ghauts, and landing places, and at all other places of public resort, and to prevent obstruction on the occasions of assemblies and processions on the public roads and in the public streets or in the neighbourhood of places of worship during the time of public worship, and in any case when any road, street, thoroughfare, ghaut, or landing place may be thronged or may be liable to be obstructed.

Penalty for disobeying orders issued under last two Sections, &c.

XXXII. Every person opposing, or not obeying the orders issued under the last two preceding Sections, or violating the conditions of any licences granted by the District Superintendent or Assistant District Superintendent of Police for the use of music; or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding Two Hundred Rupees.

Control of the Magistrate of the District under last three Sections.

XXXIII. Nothing in the last three preceding Sections, shall be deemed to interfere with the general control of the Magistrate referred to therein.

Certain duties of Police Officers.

Obstructions and nuisances in roads.

XXXIV. Any person who, on any road or in any street or thoroughfare within the limits of any Town to which this Section shall be specially extended by the Local Government, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding Fifty Rupees, or to imprisonment not exceeding either; and it shall be lawful for any Police Officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely:—

First.—Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle.

Second.—Any person who wantonly or cruelly beats, abuses, or tortures any animal.

Third. Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public.

Fourth. Any person who exposes any goods for sale.

Fifth. Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials; or who constructs any cowshed, stable, or the like, or who causes any offensive matter to run from any house, factory, dung heap, or the like.

Sixth. Any person who is found drunk or riotous, or who is incapable of taking care of himself.

Seventh. Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose.

Eighth. Any person who neglects to fence in, or duly to protect any well, tank, or other dangerous place or structure.

Jurisdiction.

Proviso.

XXXV. In all cases of convictions under this Act the Officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict; provided that any charge against a Police Officer above the rank of a Constable under this Act shall be enquired into and determined only by an Officer exercising the powers of a Magistrate.

XXXVI. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

Power to prosecute not affected.

Proviso.

XXXVII. All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, in case of non-payment thereof, be levied by distress and sale of the offender within the limits of the jurisdiction of the Magistrate of the District, by warrant under the hand of the Magistrate who made the order.

Levy of forfeiture and penalties by distress.

XXXVIII. In case any such forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Procedure until return is made to warrant of distress.

XXXIX. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed Fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if distress not sufficient.

XL. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offenderi s convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Levy of fines from European British subject.

XLI. All sums paid for the service of process by Police Officers, and all rewards, forfeitures, and penalties, or shares of rewards, forfeitures and penalties which by law are payable to informers, shall, when the information is laid by a Police Officer, be paid into the General Police Fund.

Rewards to Police and informers payable to General Police Fund.

XLII. All actions and prosecutions against any person, which may be lawfully brought for any thing done or intended to be done under the provisions of this Act, or under the general Police powers hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the District in which the act was committed, one month at least before the commencement of the action. No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held, shall certify his approbation of the action Provided always that no action shall in any case lie where such Officers shall have been prosecuted criminally for the same act.

Limitation of action.

Tender of amends.

Proviso.

XLIII. When any action or prosecution shall be brought or any proceedings held against any Police Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate. Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine. Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by any thing contained in this Section.

Plea that act was done under a warrant.

Proviso.

XLIV. It shall be the duty of every Officer in charge of a Police Station to keep a General Diary in such form as shall, from time to time, be prescribed by the Local Government, and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been

Police Officers to keep a Diary.

taken from their possession or otherwise, and the names of the witnesses who shall have been examined. The Magistrate of the District shall be at liberty to call for and inspect such Diary.

Local Government empowered to prescribe the form of Returns.

XLV. The Local Government may direct the submission of such Returns by the Inspector General and the other Police Officers as to such Local Governments shall seem proper, and may prescribe the form in which such Returns shall be made.

Scope of Act.

XLVI. This Act shall not take effect in any Presidency Province, or place, unless the same shall be extended to such Presidency, Province or place by the Governor-General of India in Council by an order to be published in the *Government Gazette*. When the Act shall have been so extended it shall be carried into effect in such Presidency, Province, or place as the Local Government, by an order to be published in the *Official Gazette*, shall direct.

Authority of District Superintendent of Police over Village Police.

XLVII. It shall be lawful for the Local Government, in carrying this Act into effect in any part of the territories subject to such Local Government, to declare that any authority which now is or may be exercised by the Magistrate of the District over any Village Watchman or other Village Police Officer for the purposes of Police, shall be exercised, subject to the general control of the Magistrate of the District, by the District Superintendent of Police.

FORM (*See Section VIII.*)

A. B. has been appointed a Member of the Police Force under Act V. of 1861 and is vested with the powers, functions and privileges of a Police Officer.

ACT No. VI. OF 1861.

(Received the assent of the Governor-General on the 9th April 1861.)

1. *Penal Code to take effect on 1st January 1862.*
2. *Construction.*

An Act to alter the time from which the Indian Penal Code shall take effect.

Penal Code to take effect on 1st January 1862.

I. Act XLV of 1860, called the Indian Penal Code, shall not take effect until the first day of January 1862, and shall take effect on and from that day.

Construction.

II. Every part of the said Act, in which the first day of May 1861 is mentioned, shall be read and construed as if the first day of January 1862 had been mentioned therein, instead of the first day of May 1861.

ACT No. IX OF 1861.

(Received the assent of the Governor-General on the 24th April 1861.)

1. *Application.*
2. *Production, and temporary custody and protection, of minor.*
3. *Court, after hearing statements of the parties, &c., to make order regarding custody or gardianship of minor.*
4. *Procedure.*
5. *Appeal.*
6. *Orders passed under this Act not liable to be contested in a regular suit.*
7. *Saving of laws.*
8. *Interpretation.*

An Act to amend the law relating to Minors.

WHEREAS it is expedient to amend the Law for hearing suits relative to the custody and guardianship of minors; It is enacted as follows —

Application.

I. Any relative or friend of a minor who may desire to prefer any claim in respect of the custody or guardianship of such minor an make an application

by petition either in person or by a duly constituted agent, to the principal Civil Court of original jurisdiction in the district by which such application, if preferred in the form of a regular suit, would be cognizable, and shall set forth the grounds of his application in the petition. The Court, if satisfied by an examination of the Petitioner or his agent, if he appear by agent, that there is ground for proceeding shall give notice of the application to the person named in the petition as having the custody or being in the possession of the person of such minor, as well as to any other person to whom the Court may think it proper that such notice should be given, and shall fix as early a day as may be convenient for the hearing of the petition and the determination of the right to the custody or guardianship of such minor.

Production and temporary custody and protection, of minor.

II. The Court may direct that the person having the custody or being in possession of the person of such minor shall produce him or her in Court or in any other place appointed by the Court on the day fixed for the hearing of the petition or at any other time, and may make such order for the temporary custody and protection of such minor as may appear proper.

Court after hearing statements of the parties, &c., to make order regarding custody or guardianship of minor.

III. On the day appointed for the hearing of the petition, or as soon after as may be practicable, the Court shall hear the statements of the parties or their agents if they appear by agents, and such evidence as they or their agents may adduce, and thereupon shall proceed to make such order as it shall think fit in respect to the custody or guardianship of such minor and the costs of the case.

Procedure.

IV. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in Act VIII of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*) in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit.

Appeal.

V. An appeal shall lie to the Sudder Court from any order made by a lower Court under this Act, under the rules applicable to regular appeals to such Sudder Court, except that the petition of appeal may be written on a stamp paper of the value prescribed for petitions to the Sudder Courts.

Orders passed under this Act not liable to be contested in a regular suit.

VI. Any order passed under this Act in respect to the custody or guardianship of a minor, shall not be liable to be contested in a regular suit.

Saving of laws.

VII. Nothing in this Act shall be taken to interfere with the jurisdiction exercised under the Laws in force by any Supreme Court of Judicature or the Courts of Wards : or under Act XXI of 1855 (*for making better provision for the education of male minors and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort Saint George*), Act XL of 1858 (*for making better provision for the care of the persons and property of minors in the presidency of Fort William in Bengal.*)

Interpretation.

VIII. The term "Sudder Court" in this Act shall denote the Highest Court of Appeal in any part of the British territories in India.

ACT No. XI OF 1861.

(Received the assent of the Governor-General on the 1st May 1861.)

1. Suits now pending or instituted before 1st January 1862 to be tried as if Act XIV of 1859 had not been passed.

2. Sections XIX, XX, XXI, XXII, and XXIII, not to take effect till 1st January 1862.

An Act to amend Act XIV of 1859 (*to provide for the limitation of suits.*)

I. ALL suits now pending, or which shall be instituted before the 1st day of January 1862, shall be tried and determined as if Act XIV of 1859 (*to provide for the limitation of suits*) had not been passed.

II. Sections XIX, XX, XXI, XXII, and XXIII, of the said Act, shall not take effect or have any operation before the said 1st day of January 1862.

ACT No. XIV OF 1861.

(Received the assent of the Governor-General on the 27th May 1861.

1. Certain tracts removed from the Jurisdiction and procedure of the ordinary tribunals. Proviso.

2. Administration of justice and collection of Revenue vested in Officers subject to the control of the Lieutenant-Governor of the North-Western Provinces.

3. Appeals.

4. Reference to the Sudder Court.

5. Place of imprisonment or transportation.

6. Questions of disputed boundary to be determined by Commissioner of Rohilcund.

7. Commencement of Act.

An Act to remove certain tracts of Country in the Rohilcund Divison from the Jurisdiction of the tribunals established under the general Regulations and Acts.

WHEREAS it is expedient to remove certain tracts of country in the Rohilcund Division from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Offices of that Division, under the General Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from the jurisdiction and procedure of the ordinary tribunals.

I. The tracts of country described in the Schedule to this Act, and such parts of the Pergunnahs Juspoor and Kasheepoor in the District of Mooradabad as shall be declared and defined by the Lieutenant-Governor of the North-Western Provinces, by an order to be published in the manner prescribed by Section VII of this Act on or before the date fixed by the said Lieutenant-Governor under the said Section VII for this Act to take effect, are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor-General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid, and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tracts, unless the same may be specially named therein: provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

II. The repeal of this Section is contingent on the passing of Bill No. 10 of 1870.

III. The repeal of this Section is contingent on the passing of Bill No. 10 of 1870.

Reference to the Sudder Court.

IV. It shall be lawful to the Lieutenant-Governor of the North-Western Provinces to direct any Officer empowered to administer Criminal jurisdiction in or for the tracts aforesaid, to refer the sentence passed by him in any class of Criminal trials for the confirmation of the Sudder Court; and no sentence of death passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court * * * * shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.*

Place of imprisonment or transportation.

V. Any person liable to be imprisoned in any Civil or Criminal Jail or to be transported beyond sea under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Jail or transported to any place which the Lieutenant-Governor of the North-Western Provinces may direct.

VI. The repeal of this Section is contingent on the passing of Bill No. 10 of 1870.

VII. The repeal of this Section is contingent on the passing of Bill No 10 of 1870.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—

The Pergunnah of Bazpoor in the District of Mooradabad:

* The words omitted from this Section have been repealed by Act XIV of 1870.

The Pergunnahs of Roodurpoor and Guddurpoor in the District of Bareilly :
The Pergunnahs of Kilpooree, Nanuk-Muttha, and Bilhéree in the District of Peeleebheet.

ACT No. XVI OF 1861.

(Received the assent of the Governor-General on the 7th July 1861.)

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1. *Definition of Stage Carriage.*
2. *Grant of licenses.*
3. *Refusal of license. Particulars of license.*
4. *Charge for and duration of license.*
5. *Number of license, &c. to be painted on conspicuous part of carriage.*
6. *Penalty for letting carriage for hire without having the number, &c. painted on it.*
7. *Penalty for letting for hire unlicensed carriage.*
8. *Penalty for carriage drawn by less number of animals or carrying a greater number of passengers, &c. than is provided by the license.*
9. *Penalty for ill-treating animals.*
10. *Revocation of license.*
11. *Penalty for not conforming to provisions of Section V.*
12. *Penalty for misconduct on part of drivers.*
13. *Penalty in certain case recoverable from proprietor. Proviso.*
14. *Issue of summons.*
15. *Adjudication of penalties.*
16. *Recovery of penalties. &c.*
17. *Offender may be apprehended and detained in custody until return of warrant of distress.*
18. *Imprisonment of offender if distress not sufficient.*
19. *Recovery of penalty and costs from European British subjects.*
20. *Jurisdiction.*
21. *Interpretation. "Magistrate." "British India." "Horse." Number. Gender.*
22. *Act when to begin.*

An Act for licensing and regulating Stage Carriages..

WHEREAS it is expedient to license and to regulate Stage Carriages in British India ; It is enacted as follows :—

Definition of Stage Carriage.

I. Every carriage drawn by one or more horses which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India, shall without regard to the form or construction of such carriage be deemed to be a Stage Carriage within the meaning of this Act. Provided, that this Act shall not apply to carriages not ordinarily used for journies of a greater distance than twenty miles.

Grant of license.

II. No carriage shall be used as a State Carriage unless licensed by a Magistrate or by the Chief Commissioner of Police of a Presidency Town.

Particulars of license.

III. The Magistrate or Chief Commissioner of Police to whom the application for a license of a Stage Carriage is made, may refuse to license the same, if he shall be of opinion that such Stage Carriage is unserviceable or is unsafe or unfit for public accommodation or use. If a Magistrate or Chief Commissioner of police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the Stage Carriage, the place at which his head office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

Charge for and duration of license.

IV. For every such license there shall be paid by the proprietor of the Stage Carriage the sum of 5 Rupees, and such license shall be in force for one year from the date thereof. When a licensed Stage Carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year, and every person who appears by the license to be the proprietor, shall be deemed to be such proprietor for all the purposes of this Act.

Number of license, &c., to be painted on conspicuous part of carriage.

V. On any Stage Carriage being licensed, the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such Stage Carriage.

Penalty for letting carriage for hire without having the number, &c., printed on it.

VI. The proprietor of any licensed Stage Carriage who shall let such Stage Carriage for hire without the particulars specified in Section III being painted on such carriage in the manner directed in the last preceding Section, shall be liable to a fine not exceeding 100 Rupees.

Penalty for letting for hire unlicensed carriage.

VII. Whoever lets for hire any Stage Carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding 100 Rupees, and on any subsequent conviction to a fine which may extend to 500 Rupees.

Penalty for carriage drawn by less number of animals or carrying a greater number of passenger, &c., than is provided by the license.

VIII. Any proprietor, agent of a proprietor, or any driver of a licensed Stage Carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers or a greater weight of luggage to be carried by such Stage Carriage than shall be provided by the license, shall be liable on a first conviction to a fine not exceeding 100 Rupees, and on any subsequent conviction to a fine which may extend to 500 Rupees. In every case where such Stage Carriage shall be proved to have been drawn by a less number of horses, or to have carried a large number of passengers or a greater weight of luggage than shall be provided by the license, the proprietor of such carriage shall be held to have knowingly permitted such offence; unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution and had made reasonable provision to prevent the commission of the offence.

Penalty for illtreating animals.

IX. Any person who shall cruelly beat, ill-treat, over-drive, abuse, torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any horse employed in drawing or harnessed to any Stage Carriage, or who shall harness to or drive in any Stage Carriage any horse which from sickness, age, wounds, or other cause is unfit to be driven in such Stage Carriage, shall for every such offence be liable to a fine not exceeding 100 Rupees.

Revocation of license.

X. Any Magistrate or Chief Commissioner of Police within the local limits of whose jurisdiction any Stage Carriage shall ply, or who has granted the license of any Stage Carriage, may cancel the license of such Stage Carriage, if it shall appear to him that such Stage Carriage or any horse or any harness used with such carriage is unserviceable or unsafe or otherwise unfit for public accommodation or use.

Penalty for not conforming to provisions of Section V.

XI. In any Station or place in which a Magistrate shall reside and be, any Police Officer may, in any place within two miles of the Office of such Magistrate, seize any Stage Carriage with the horse harnessed thereto, if the full particulars of the license of such Stage Carriage be not distinctly painted on such Stage Carriage in the manner provided in Section V of this Act Such carriage with the horse harnessed thereto shall be taken without delay by such Police Officer before such Magistrate, who shall forthwith proceed to hear and determine the complaint of such Police Officer; and if thereupon any fine is imposed by such Magistrate and such fine is paid, such Stage Carriage and horse shall be immediately released; and if such fine be not paid, such Stage Carriage and horse may be detained for twenty days as security for the payment thereof; and if the fine be not sooner paid, they may be sold and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale; and the surplus (if any), when claimed, shall be paid to the proprietor of such carriage and horse; and if such surplus be not claimed within a further period of two months from such sale, the same shall be forfeited to the State. If the proceeds of such sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as hereinafter provided.

Penalty for misconduct on part of drivers.

XII. If any driver of any Stage Carriage, or any other person having the care thereof, shall through intoxication, neglect, or by wanton or furious driving, or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of such Stage Carriage or of any other person, every such person so offending shall be liable to a fine not exceeding 100 Rupees.

Penalty in certain cases recoverable from proprietor.

XIII. Whenever the driver of any Stage Carriage or the owner of any horse employed in drawing any Stage Carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in Section VIII, and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse

at the time when such offence was committed. Provided, that if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner without the privity or knowledge of such proprietor, and that no profit, advantage, or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his best endeavour to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found.

Proviso.

XIV. Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a Stage Carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest Agent, and may transmit such summons by letter post, which shall be deemed to be good service thereof. The letter shall be registered at the Post Office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case. The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his Agent as aforesaid.

Issue of Summons.

XV. All penalties incurred under this Act, shall be adjudged by a Magistrate or Chief Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or Chief Commissioner of Police shall be final.

Adjudication of penalties.

XVI. All penalties imposed under this Act, or any balance of any fine, costs, or charges as mentioned in Section XI of this Act, may, in case of non-payment or non-recovery thereof, be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same.

Recovery of penalties &c.

XVII. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Offender may be apprehended and detained in Custody until return of Warrant of Distress.

XVIII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed 50 Rupees, and for any term not exceeding four calendar months when the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment of offender if Distress not sufficient.

XIX. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Recovery of penalty and costs from European British subjects.

XX. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other Officer.

Jurisdiction.

XXI. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a Magistrate.

Interpretation, "Magistrate."

The term "British India" in this Act shall denote the Territories that are or shall be vested in Her Majesty by the Statue 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

The term "Horse" shall include ponies and mules.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include the feminine.

XXII. Repeald by Act XIV of 1870.

ACT No. XVII OF 1861.

(Received the assent of the Governor-General on the 7th July 1861.)

1. Rate of Duty to be charged on the exportation of Sugar from 9th March 1861.
2. New Duty to be collected under Act XIV of 1843.
3. Indemnity to Collectors, &c.

An Act to amend Act XIV of *1843 (for regulating the Customs Duties in the North-Western Provinces.)*

WHEREAS it is expedient to amend the law relating to Customs Duties so far as relates to the export Duty on Sugar or other saccharine produce in the North Western Provinces: It is enacted as follows:—

Rate of Duty to be charged on the exportation of Sugar from 9th March 1861.

I. From and after the 9th day of March 1861, in lieu of the Duty on Sugar and other saccharine produce, exported from the North Western Provinces, authorized to be charged under Act XIV of 1843 *(for regulating the Custom Duties in the North Western Provinces)*, there shall be collected and paid the following Duty, that is to say—

On the export of Misree, Kund, Cheene, and all clayed and refined Sugar, 1 Rupee per Maund.

On the export Goor, Rab, Sheerah and all unclayed and unrefined saccharine produce, 6 annas per maund.

New Duty to be collected under Act XIV of 1843.

II. The said new Duty shall be collected and paid under the provisions of the said Act XIV of 1843, in the same manner as if the said new Duty had been imposed thereby.

III. Repealed by Act XLV. of 1870.

ACT No. XIX OF 1861.*

(Received the assent of the Governor-General on the 16th July 1861.)

1. Laws Repealed.
2. No Body Corporate or person to issue Notes, &c., payable to bearer on demand. Exception in favour of Cheques.
3. Department of issue to be established.
4. Head Commissioner and Commissioners to be appointed.
5. Power to Governor-General in Council to establish Circles of issue.
6. Deputy Commissioners to be appointed.
7. Commissioners to be subordinate to Head Commissioners, Deputy Commissioners to Commissioner.
8. Notes to be prepared by Head Commissioner and distributed by him. Where payable.
9. When such Notes may be issued. Proviso.
10. The whole amount of bullion and coin received for Notes to be kept as a reserve to pay such Notes, excepting an amount not exceeding 4 crores of rupees. to be fixed as the minimum limit of circulation.
11. In what names the Government Securities to stand.
12. Rules to be framed for keeping and auditing the accounts.
13. Abstract of accounts to be published.
14. Securities to be disposed of when necessary.
15. Interest of Securities to be paid to the credit of Government.
16. Notes where legal tender.
17. Name of Head Commissioner, &c., may be impressed with machinery.
18. Notes may be described as Promissory Notes.
19. Penalty for issuing such Notes contrary to provisions of this Act.
20. Definition of "British India."

An Act to provide for a Government Paper Currency.

WHEREAS it is expedient to provide for the issue by the Government of India of Promissory Notes payable to bearer on demand, and to regulate the

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* *See* Act I, 1866 and XXX, 1867.

mode of issuing and securing payment of the same; and whereas due notice has been given by the Governor-General of India in Council to the Banks of Bengal, Bombay, and Madras respectively, as required by Acts VI of 1839. III of 1840 and IX of 1843, that the said Banks are to be modified by the power of the said Banks to issue Promissory Notes payable on demand ceasing from and after the day hereinafter provided; It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

No Body Corporate or person to issue Notes, &c., payable to bearer on demand.

II. After the passing of this Act, no Body Corporate, person or persons whatsoever, in British India, (except the Banks of Bengal, Madras, and Bombay, up to the said 1st day of March 1862, and except as hereinafter provided), shall draw, accept, make, or issue any Bill of Exchange or Promissory Note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the Bills or Notes payable to bearer on demand of any such Body Corporate, or of any such person or persons. Provided that Cheques or Drafts payable to bearer on demand or otherwise may be drawn on Bankers, Shroffs, or Agents by the customers or constituents of such Bankers, Shroffs, or Agents, in respect of deposits of money in the hands of such Bankers, Shroffs, or Agents, and held by them at the credit and disposal of the persons drawing such Cheques or Drafts.

Exception in favor of Cheques.

Department of Issue to be established.

III. There shall be established by the Governor-General of India in Council a department of the Public Service, to be called the Department of Issue, either in connection with the Mints or otherwise, and from and after the passing of this Act there may be issued from the said Department, as hereinafter provided, Promissory Notes of the Government of India payable to bearer on demand, for such sums, not being less than 10 Rupees, as the Governor-General of India in Council shall from time to time direct.

Head Commissioner and Commissioners to be appointed.

IV. The Governor-General in Council, after the passing of this Act, shall appoint some person, who may be the Master of the Mint at Calcutta, to be called the Head Commissioner of the Department of Issue, and two other persons, who may be the Master of the Mint at Madras and Master of the Mint at Bombay, who shall be called respectively the Commissioners of Department of Issue at Madras, and Bombay, and it shall be lawful for the Governor-General of India in Council from time to time, by Rules to be published in the Gazettes of Calcutta, Madras and Bombay, to make such arrangements through any Officers of Government or with any persons, Banks, or Bodies Corporate, either at Calcutta, Madras, and Bombay or elsewhere, as may be required to regulate and facilitate the issue and payment, under the provisions of this Act, of Promissory Notes of the Government of India, of such denominations as shall be prescribed under the last foregoing Section, not being for any less sum than 10 Rupees.

Power to Governor General in Council to establish Circles of Issue.

V. It shall be lawful for the Governor-General of India in Council from time to time, by order to be published in the Gazettes of Calcutta, Madras, and Bombay, to establish in British India, Districts to be called "Circles of Issue," three of which Circles shall include the Towns of Calcutta, Madras, and Bombay, respectively, and in each Circle to appoint some one city or town to be the place of issue of Notes, as hereinafter provided. It shall be lawful for the Governor-General of India in Council by an order to be published as aforesaid, from time to time, to alter or extend the limits of the said Circles or any of them. Promissory Notes of the Government of India may be issued in the several Circles of issue as hereinafter provided.

Deputy Commissioners to be appointed.

VI. For each Circle of Issue other than those which include the Towns of Calcutta, Madras, and Bombay, there shall be appointed by the Governor General in Council an Officer of the Government or other person to be called the Deputy Commissioner of issue. In any Circle of Issue there may be also established an Agency or Agencies of Issue in connection with a Bank or otherwise.

Commissioners to be subordinate to Head Commissioner, Deputy Commissioners to Commissioner.

VII. For the purposes of this Act, the Commissioners at Madras and Bombay shall be subordinate to the Head Commissioner; the Deputy Commissioners and Agents in the Presidency of Fort William in Bengal shall be subordinate to the Head Commissioner; and the Deputy Commissioners and Agents in the Presidencies of Fort St. George and Bombay shall be subordinate to the Commissioners of Madras and Bombay respectively.

Notes to be prepared by Head Commissioner and distributed by him.

VIII. The Head Commissioner of Issue for the time being shall provide, on paper to be specially manufactured for the purpose, Promissory Notes of the Government of India payable to bearer on demand, of the denominations which shall be from time to time prescribed under Section III of this Act, and shall supply or cause to be supplied to the Commissioners at Madras and Bombay, and to the several Deputy Commissioners and Agents, such Notes as they shall require for the purposes of this Act, and all Notes shall bear upon them the ame of the city or town from which they are severally issued, and shall be

Where payable.

payable only at the Office or Offices or Agencies of Issue of such city or town, and at the Presidency Town of the Presidency within which such city or town is situated.

When such Notes may be issued.

IX. The Head Commissioner, the Commissioners, and the Deputy Commissioners and Agents shall, in their respective "Circles of Issue," on the demand of any person, issue from such Office or Offices or Agencies of Issue as shall be established in the appointed city or town in their respective Circles, Promissory Notes of such denominations as shall be prescribed under Section III, not being for any less sum than 10 Rupees, on the terms following :—

First, in exchange for the amount thereof in current silver coin of the Government of India.

Or, *Secondly*, in exchange for the amount thereof in standard silver bullion or foreign silver coin computed according to such standard, at the rate of 979 Rupees per 1,000 tolahs of standard silver fit for Coinage ;

Proviso.

Provided that the said Head Commissioner, Commissioners, Deputy Commissioners, and Agents shall, in all cases, be entitled to require such silver bullion and foreign coin to be melted and assayed at the expense of the person tendering the same, and provided also that in all places where there is no Mint of the Government of India, it shall be optional for any such Head Commissioner, Commissioner, Deputy Commissioners and Agents, to issue Notes in exchange for silver or foreign coin under this Section ;

Or, *thirdly*, in exchange for other Notes of the Government of India payable to bearer on demand of other amounts issued within the same Circle.

Provided also, that it shall be lawful for the Governor General in Council from time to time to direct, by order to be published in the Gazettes of Calcutta, Madras, and Bombay, that Notes to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as herein provided, shall be issued at such Offices or Agencies of Issue as may be made in the order, in exchange for gold coin of full weight of the Government of India, or for foreign gold coin or gold bullion computed at such rates and according to such rules and conditions as shall be fixed by such order, and which rates, rules, and conditions shall not be altered without six months' previous notice. Whenever such order shall be issued, the Head Commissioner, Commissioners, Deputy Commissioners, and Agents, at the Offices or Agencies specified in the order, shall be bound to issue Notes on demand in conformity with such order.*

The whole amount of bullion and coin received for Notes to be kept as a reserve to pay such Notes, excepting an amount no exceeding 4 crores of Rupees to be fixed as the minimum limit of circulation.

X. The whole amount of the bullion and coin so received for Notes shall be retained and secured as a reserve to pay such Notes, with the exception of such an amount, not exceeding four crores of Rupees, as the Governor-General in Council, with the consent of the Secretary of State for India, shall from time to time fix. The amount so fixed shall be published in the Gazettes of Calcutta, Madras, and Bombay, and shall be invested in Government securities, and the said coin, bullion and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said Notes ; and the said Notes shall be deemed to have been issued on the security of the coin, bullion, and securities so appropriated and set apart, as well as on the general credit of the Government. Provided that any gold coin or bullion which may be received under this Act, may be sold or exchanged for silver coin or bullion to be so appropriated and set apart, instead of the gold coin or bullion.

In what names the Government Securities to stand.

XI. The Government Securities purchased under this Act in the Presidency of Fort William in Bengal shall stand in the name of the Head Commissioner and the Master of the Mint at Calcutta ; the Government Securities purchased under this Act in the Presidency of Fort Saint George shall stand in the name of the Commissioner at Madras and the Master of the Mint at Madras ; and the Government Securities purchased under this Act in the Presidency of Bombay shall stand in the name of the Commissioner at Bombay and the Master of the Mint at Bombay. Provided that if the Head Commissioner or Commissioner in any case be the Master of the Mint, the Governor-General in Council shall appoint another Trustee or Trustees in addition to the Master of the Mint.

Rules to be framed for keeping and auditing the Accounts.

XII. The Head Commissioner from time to time shall frame Rules to be approved by the Governor-General of India in Council, for keeping the accounts of the said Department of Issue, and for the auditing of such accounts, and for otherwise regulating the business of the Department ; provided that such Rules shall be in no wise inconsistent with the provisions of this Act.

Abstract of accounts to be published.

XIII. An Abstract of the accounts of the Department, shewing the whole amount of Notes in circulation, the amount of coin and bullion reserved,

* Amended by Act 1. 1866, which *see*.

distinguishing gold from silver, and the amount of the Government Securities held by the said Department, shall be made up monthly in Calcutta, and published as soon may be in the Gazettes of Calcutta, Madras and Bombay.

Securities to be disposed of when necessary.

XIV. It shall be lawful for the Head Commissioner in respect of the Presidency of Fort William in Bengal, and for the Commissioners at Madras and Bombay in respect of the Presidencies of Madras and Bombay respectively, at any time when they shall be ordered so to do by the Governor-General of India in Council, to sell and dispose of any portion of the above-mentioned limited amount of Government Securities standing in their names respectively, and in the names of the Masters of the Mint or Trustees as aforesaid; and for the purpose of effecting such sales, the said Master of the Mint or Trustees respectively shall, on a request in writing from the said Head Commissioner or Commissioner in their respective Presidencies, at all times sign and endorse such Government Securities as shall stand in their names respectively, and it shall be lawful for the said Head Commissioner or Commissioners, if directed by the Governor-General of India in Council, to purchase Government Securities to replace their sales.

Interest of Securities to be paid to the credit of Government.

XV. The interest accruing due on the Government Securities purchased and held under this Act shall be entered in a separate account, to be annually rendered by the Head Commissioner to the Governor-General of India in Council; and the amount of such interest shall, from time to time, as it becomes due, be paid by the Accountants General in the several Provinces of India, into the revenues of the Government of India, under the head of "Profits of Notes Circulation," and an account shewing the amount of profits of the Note circulation and of the charges and expenses incidental thereto, shall be made up and published annually in the Gazettes of Calcutta, Madras, and Bombay.

Notes where tender.

XVI. Within any of the "Circles of Issue," as hereinbefore provided, a tender of a Note or Notes issued under this Act from any Office or Agency of Issue of such "Circle of Issue," shall be a legal tender to the amount expressed in such Note or Notes, and shall be taken to be valid as a tender to such amount in payment of any revenue or other claim to the amount of 10 Rupees and upwards due to the Government of India, and in payment of any sum of 10 Rupees and upwards due by the Government of India, or by any Body Corporate or by any person or person in British India, on all occasions whatsoever on which any tender of money can be legally made. Provided that no such Note or Notes shall be deemed to be a legal tender of payment by the Government of India at any Office or at the Issue Department of any Agency of Issue.

Name of Head Commissioner &c., may be impressed with Machinery.

XVII. The name of the Head Commissioner, of either of the Commissioners, of any Deputy Commissioner, or of any other person authorized by the said Head Commissioner, or by either of the said Commissioners to sign Notes issued under this Act, may be impressed or affixed by machinery provided for that purpose by the Government of India, and such printed names shall be taken to be good and valid signatures to all intents and purposes, as if such Notes had been subscribed in the proper hand-writing of any one of the persons aforesaid whose signatures the said printing purports to represent.

Notes may be described as Promissory Notes.

XVIII. All Notes issued under this Act shall be deemed and taken to be Promissory Notes of the Government of India, and may and shall be described as Promissory Notes of the Government of India in all indictments, and in Criminal and Civil proceedings, any law or usage to the contrary notwithstanding.

Penalty for issuing such Notes contrary to provisions of this Act.

XIX. If any Body Corporate or person, after the passing of this Act, shall, contrary to the provisions of this Act, draw, accept, make, or issue any Bill of Exchange Promissory Note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the Bills or Notes or engagements for the payment of money payable to bearer on demand of any such Body Corporate or person such body Corporate or person shall be liable to a penalty to the amount of every such Bill of Exchange, Promissionery Note, or engagement for the payment of money, to be recovered on the prosecution of the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of the "Circle of Issue," in which such Bill of Exchange, Promissory Note, or engagement for the payment of money is issued, before any Police Magistrate or Magistrate within such "Circle of Issue," and in case of conviction, and default of payment of such penalty, the Police Magistrate or Magistrate who shall try the case shall issue his warrant to levy the amount thereof, together with the reasonable costs of the prosecution, by distress and sale of the goods and chattels of the Body Corporate or person so convicted.

Definition of "British India."

XX. The words "British India" in this Act shall denote the Territories that are or may be vested in Her Majesty by the Statute 21 and 22 Vic. c 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

ACT No. XXII OF 1861.

(Received the assent of the Governor-General on th 20th August 1861.)

I -V. Repealed by Act XVII, 1862.

Power of Seizing cattle.

VI. The power of seizing or causing to be seized any Cattle trespassing on, or doing damage to, any land, or to any crop or produce thereon, conferred by Section II of the said Act III of 1857, may be exercised, subject to the provisions of the said Act, by any person who has given cash advances for the cultivation of the crop or produce on such land, or to whom such crop or produce shall have been sold or mortgaged.

ACT No. XXIII OF 1861.

(Received the assent of the Governor-General on the 28th August 1861.)

1. Acts repealed.

2. Cost of serving process. Requisite sum to be paid into Court within a certain time before process is issued.

3. Plaint to be returned, if it appear to the Court that it has not jurisdiction.

4. In what Court a suit against several defendants may be brought.

5. Procedure on discovery, on the day fixed for defendant to appear and answer, that usual notice has not been served in consequence of failure of plaintiff to deposit the cost of issuing the same.

6. Provisions of last Section to apply to appeals also.

7. Procedure in case of dismissal of suit under Section V.

8. Procedure on application for discharge by a person arrested in execution of a decree for money.

9. Court may of its own accord summon witnesses.

10. In suits for money, decree may order certain interest to be paid on the principal sum adjudged.

11. How questions regarding amount of mesne profits and interest and sums paid in satisfaction of decrees. &c., are to be determined.

12. Appeals from orders rejected under Section CCCLXIV, Act VIII of 1859, may be admitted on Application to be on Stamp paper.

13. In suits of the nature and amount cognizable by small Cause Courts, Court may on verbal application of the judgment-creditor direct immediate execution against either the person or property of judgment-debtor.

14. Co-sharer of a share of a Putteedaree Estate sold in execution of decree may claim to take the share at the sale price. Proviso.

15. Procedure on reciving application for execution of decree.

16. Procedure when certain offences under Chapter XI of the Penal Code are committed in any case pending before any Court.

17. Court may take bail and bind over witnesses to give evidence.

18. How the Charge is to be framed.

19. Procedure in case of certain offences relating to documents.

20. Procedure in case person accused under Section XVI or XIX is a European British subject.

21. Procedure in certain cases of contempt.

22. Discharge of an offender on his submission.

23. Appeal to lie from all decrees, except when expressly prohibited. Appeal to Sudder Court to be heard by two or more Judges.

24. Procedure in case of application by sureties to be discharged.

25. Application for the admission of a special appeal informally drawn up, how to be dealt with.

26. No appeal from order or decision under Section XV, Act XIV of 1859.

27. No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

28. Reference of question to the Sudder.

29. Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

30. Two or more Judges of Sudder Court to decide cases referred under Section XXVIII.
31. Sudder Court to fix an early day for the hearing of the case Proclamation thereof.
32. Parties may appear and be heard in person or by pleader.
33. Decision of Sudder Court how to be transmitted.
34. Costs of reference to Sudder Court.
35. Sudder Court may call for record of lower Appellate Court, and set aside its decision, though no appeal shall lie to the Sudder Court.
36. Security may be taken when execution is required of a decree which has been appealed against.
37. Appellate Court to have same powers as Courts of original jurisdiction.
38. Procedure prescribed by Act VIII of 1859, to be followed in all future miscellaneous cases and proceedings.
39. Extension of Act to Non-Regulation Provinces.
40. Sudder Court to make general rules for regulating proceedings, &c.
41. Interpretation of "Pleader."
42. Short Title.
43. Sections XVI to XXII of this Act when to take effect.
44. Construction.

An Act to amend Act VIII of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.*)

WHEREAS it is expedient to amend Act VIII of 1859, (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) and to consolidate the Acts previously passed for the amendment of the said Act; It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

Cost of serving process.

Requisite sum to be paid into Court within a certain time before process is issued.

II. Every process required to be issued under Act VIII of 1859, shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the costs of such service shall be paid into the Court before the process is issued, within a period to be fixed by the Court issuing the process.

Plaint to be returned, if it appear to the Court that it has not jurisdiction.

III. If it appear to the Court in any case relating to land or other immoveable property that such land or other property is not situate within the limits of the jurisdiction of the Court, or in any other case that the cause of action did not arise, and that the defendant is not dwelling or personally working for gain, within such limits, the Court shall return the plaint to the plaintiff in order to its being presented in the proper Court.

In what Court a suit against several defendants may be brought.

IV. If in any suit there are more defendants than one, and at the date of the institution of the suit all the defendants shall not reside within the jurisdiction of the Court in which the suit is brought, but one or more of the defendants shall reside within such jurisdiction, the suit shall not be rejected by reason of all the defendants not residing within the jurisdiction of the Court in which the suit is brought, but the District Court, if the suit is pending in any Court subordinate to such Court, or the Sudder Court, may order that the suit be heard in any Court subordinate to such Sudder or District Court, and competent in respect of the value of the suit to try the same.

Procedure on discovery, on the day fixed for defendant to appear and answer, that usual notice has not been served in consequence of failure of plaintiff to deposit the cost of issuing the same.

V. If on the day fixed for the defendant to appear and answer to a suit, it shall be found that the summons to the defendant has not been served in consequence of the failure of the plaintiff to deposit, within the time allowed, the sum required to defray the cost of issuing the summons, the Court may order that the suit be dismissed. Provided that no such order shall be passed, although the summons hall not have been served upon the defendant, if on the day fixed for the defendant to appear and answer he shall have entered an appearance by a pleader or by a duly authorized Agent when he is allowed to appear by Agent, or shall be in attendance in person,

Provisions of last Section to apply to appeals also.

VI. The provisions of the last preceding Section shall apply to appeals also.

Procedure in case of dismissal of suit under Section V.

VII. Whenever a suit is dismissed under the provisions of Section V of this Act, the plaintiff shall be at liberty to institute a fresh suit, unless precluded by the rules for the limitation of actions, or if the plaintiff shall satisfy the Court within the period of thirty days from the date of the order dismissing the suit, that there was a sufficient excuse for his not making the deposit required within the time allowed, the Court may order a fresh summons to issue upon the plaint already filed.

Procedure on application for discharge:

VIII. When a person arrested under a warrant in execution of a decree for money, shall, on being brought before the Court, apply for his discharge on either

by a person arrested in execution of a decree for money.

of the grounds mentioned in Section CCLXXIII of Act VIII of 1859 the Court shall examine the applicant in the presence of the plaintiff or his pleader, as to his then circumstances and as to his future means of payment, and shall call upon the plaintiff to shew cause why he does not proceed against any property of which the defendant is possessed and why the defendant should not be discharged; and should the plaintiff fail to shew such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant depositing the fees of such Officer, which shall be at the same daily rate as the lowest rate charged in the same Court for serving process; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or sureties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Court may of its own accord summon witness.

IX. If the Court shall at any time think it necessary for the ends of justice to examine any person other than a party to the suit and not named as a witness by a party to the suit, the Court may, of its own accord, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession on a day to be appointed, and may examine such person as a witness. The costs of summoning such person, if not deposited by either party to the suit, shall be paid by the Collector under an order of the Court, and shall be costs in the suit, and shall be paid out of any money recovered on account of costs in the suit, whether at the instance of the Government or of either party, before any other costs in the suit are paid.

In suits for money decree may order certain interest to be paid on the principal sum adjudged.

X. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court may think proper to be paid on the principal sum adjudged from the date of suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit; with further interest on the aggregate sum adjudged and on the costs of the suit from the date of the decree to the date of payment.

How questions regarding amount of mesne profits and interest and sums paid in satisfaction of decrees, &c. are to be determined.

XI. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execution of the decree, of any mesne profits or interest which may be payable in respect of the subject-matter of a suit between the date of the institution of the suit and execution of the decree, or as well as question relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, and any other questions arising between the parties to the suit in which the decree was passed and relating to the execution of the decree, shall be determined by order of the Court executing the decree, and not by separate suit, and the order passed by the Court shall be open to appeal. Provided that if upon a perusal of the petition of appeal and of the order against which the appeal is made, the Court shall see no reason to alter the order, it may reject the appeal, and it shall not be necessary in such case to issue a notice to the respondent before the order of rejection is passed.

Appeals from orders rejected under Section CCCLXIV of 1859, may be admitted on application.

XII. An appeal from an order passed in execution of a decree which shall have been rejected as inadmissible under Section CCCLXIV of Act VIII of 1859, or which would have been inadmissable before the passing of this Act, but which is rendered admissible by this Act, may be admitted on an application in writing to the Court which rejected the appeal or by which the appeal, had it been admissible before the passing of this Act, would have been cognizable, provided the application be preferred within ninety days from the date of the passing of this Act. The application may be written on the Stamp paper prescribed for petitions in the Court to which it is presented when a Stamp on petitions is required.

Application to be on Stamp paper.

In suits of the nature and amount cognizable by Small Cause Courts, Court may on verbal application of the judgment-creditor direct immediate execution either against the person or property of jugdment-debtor.

XIII. When a decree is passed in any suit of the nature and amount cognizable by Courts of Small Causes constituted under Act XLII of 1860, the Court passing the decree, whether such Court be a Court constituted as aforesaid, or any other Court, may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, direct immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor, if he is within the local limits of the jurisdiction of the Court passing the decree, or against the personal property of the judgment-debtor, within the same limits. If the warrant be directed against the personal property of the judgment-debtor it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to

the judgment-debtor within the same limits, which shall be indicated by the judgment-creditor.

XIV. When the land sold in execution of a decree is a share of a Putteedaree Estate paying Revenue to Government as defined in Section II Act I of 1841, *(for facilitating the collection of the Revenue of Government and defining the interest intended to be conveyed by public sales for the realization of arrears of the Public Revenue in Putteedaree Estates)*, if the lot shall have been knocked down to a stranger, any co-sharer other than the judgment debtor, or any other member of the co-parcenary, may claim to take the share sold at the sum at which the lot was knocked down. . Provided that the claim be made on the day of sale, and the claimant fulfil all the conditions of the sale.

Co-sharer of a share of a Putteedaree Estate sold in execution of decree may claim to take the share at the sale price.

Proviso.

XV. The Court, on receiving any application for execution of a decree containing the particulars mentioned in Section CCXII of Act VIII of 1859, or such of them as may be applicable to the case, shall enter a note of the application and the date on which it was made in the Register of the suit. If it shall be shewn to the Court that the particulars do not correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

Procedure on receiving application for execution of decree.

XVI. When in any case pending before any Court any witness or other person shall appear to the Court to have been guilty of an offence described in Section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, or 210 of the Indian Penal Code, the Court may commit such person to take his trial for the offence before the Court of Session, or after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having jurisdiction to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law.

Procedure when certain offences under Chapter XI of the Penal Code are committed in any case pending before any Court.

XVII. The Court may send the person accused in custody or take sufficient bail for his appearance before the Magistrate and may bind over any person to appear and give evidence before the Magistrate.

Court may take bail and bind over witnesses to give evidence.

XVIII. When the commitment is made by the Court, the Court shall frame a charge in the manner provided in Chapter XII of the Code of Criminal Procedure, and shall transmit the same with the order of commitment and the record of the case to the Magistrate, and such Magistrate shall bring the case together with the witnesses for the prosecution and defence before the Court of Session.

How the charge is to be framed.

XIX. When in any case pending before any Court there shall appear to the Court sufficient ground for sending for investigation to the Magistrate, a Charge described in Sections 463, 471, 475, or 476 of the Indian Penal Code, which may be preferred in respect to any deed or paper offered in evidence in the case, the Court may send the person accused in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate. The Court shall send to the Magistrate the evidence and documents relevant to the charge and shall bind over any person to appear and give evidence before such Magistrate. The Magistrate shall receive such charge and proceed with it under the rules for the time being force.

Procedure in case of certain offences relating to documents.

XX. If the person accused or any one of the persons accused in any case falling under Section XVI or Section XIX of this Act is a European British subject, the Court shall send such person in custody or take sufficient bail for his appearance before an Officer empowered to commit or hold to bail persons charged with offences for trial before a Supreme Court of Judicature, and such Officer shall proceed according to law.

Procedure in case person accused under Section XVI or XIX is a European British subject.

XXI. When any such offence as is described in Sections 175, 178, 179, 180, or 228 of the Indian Penal Code is committed in the view or presence of any Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding 200 Rupees, or by imprisonment in the Civil Jail for a period not exceeding one month unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding 200 Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate, or Justice of the Peace,

Procedure in certain cases of contempt.

or if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53 George III, c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

Discharge of an offender on his submission.

XXII. When any person has been sentenced to punishment under the last preceding Section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.

Appeal to lie from all decrees, except when expressly prohibited.

Appeal to Sudder Court to be heard by two or more Judges.

XXIII. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, and appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. If the appeal lie to the Sudder Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court. If, when the Court consists of only two Judges, there is a difference of opinion upon the evidence in cases in which it is competent to the Court to go into the evidence and one Judge concur in opinion with the Lower Court as to the facts, the case shall be determined accordingly: if in a Court so constituted there is a difference of opinion upon a point of law, the Judges shall state the point upon which they differ, and the case shall be re-argued upon that question before one or more of the other Judges and shall be determined according to the opinion of the majority of the Judges of the Sudder Court by whom the appeal is heard.

Procedure in case of application by sureties to be discharged.

XXIV. The sureties for the appearance of any person under Section LXXVI of the said Act VIII of 1859, may at any time apply to the Court in which they became such sureties to be discharged from their engagements. On such application being made the Court shall summon such person to attend, or if it shall think fit, may issue a warrant in the first instance for his appearance. On the appearance of such person pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties and thereupon proceedings shall be had under Sections LXXVII and LXXVIII of the said Act.

Application for the admission of a special appeal informally drawn up, how to be dealt with.

XXV. If the application for the admission of a special appeal be not written on a stamp paper of the prescribed value, or if it be not drawn up in the manner laid down in Section CCCLXXIV of Act VIII of 1859, or if it do not state any ground on which a special appeal will lie under the provisions of Section CCCLXXII of the said Act, the Court may reject the application, or may return it to the party for the purpose of being corrected. The order for rejecting the application or for returning it to the party may be passed by a single Judge of the Court. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D of the said Act, and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals, so far as the same may be applicable.

No appeal from order or decision under Section XV, Act XIV of 1859.

XXVI. No appeal shall lie from any order or decision passed in any suit instituted under Section XV, Act XIV of 1859 (*to provide for the limitation of suits*), nor shall any review of any such order or decision be allowed.

No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

XXVII. No special appeal shall lie from any decision or order which shall be passed on regular appeal after the passing of this Act by any Court subordinate to the Sudder Court, in any suit of the nature cognizable in Courts of Small Causes under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), when the debt, damage, or demand for which the original suit shall be instituted shall not exceed 500 Rupees; but every such order or decision shall be final.

Reference of question to the Sudder.

XXVIII. If in any suit in which an order or decision is made final under the last preceding Section, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court trying such suit shall entertain reasonable doubts, the Court may, either of

its own motion or on the application of either of the parties to the suit, draw up a statement of the case and submit such statement with it own opinion for the decision of the Sudder Court.

XXIX. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court on the point referred; but not execution shall be issued in any case in which a reference shall be made to the Sudder Court until the receipt of the order of that Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

XXX. Cases referred for the opinion of the Sudder Court shall be dealt with by two or more Judges of that Court.

Two or more Judges of Sudder Court to decide cases referred under Section XXVIII.

XXXI. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that Court.

Sudder Court to fix an early day for the hearing of the case. Proclamation thereof.

XXXII. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

Parties may appear and be heard in person or by pleader.

XXXIII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment under the seal of the Court and the signature of the Register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Decision of Sudder Court how to be transmitted.

XXXIV. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be costs in the suit.

Costs of reference to Sudder Court.

XXXV. The Sudder Court may call for the record of any case decided on appeal by any Subordinate Court in which no further appeal shall lie to the Sudder Court, if such subordinate Court shall appear in hearing the appeal to have exercised a jurisdiction not vested in it by law, and the Sudder Court may set aside the decision passed on appeal in such case by the Subordinate Court, or may pass such other order in the case as to such Sudder Court may seem right.

Sudder Court may call for record of lower Appellate Court, and set aside its decision, though no appeal shall lie to the Sudder Court.

XXXVI. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the Appellate Court. The Appellate Court may in any such case direct the Court which pronouned the decree to take such security.

Security may be taken when execution is required of a decree which has been appealed against.

XXXVII. Unless when otherwise provided, the Appellant Court shall have the same powers in cases of appeal which are vested in the Courts of original jurisdiction in respect of original suits.

Appellate Court to have same powers as Courts of original jurisdiction.

XXXVIII. The procedure prescribed by Act VIII of 1859 shall be followed as far as it can be in all miscellaneous cases and proceedings which after the passing of the Act shall be instituted in any Court.

Procedure prescribed by Act VIII of 1859, to be followed in all future miscellaneous cases and proceedings.

XXXIX. When under the provisions of Section CCCLXXXV of the said Act, the Act is extended to any part of the Territories not subject to the General Regulations of Bengal, Madras, and Bombay, it shall be lawful for the Government to which the territory is subordinate to declare that the Act shall take effect therein subject to any restriction, limitation, or proviso which it may think proper. In such case the restriction, limitation, or proviso shall be inserted in the declaration or notification of such extension. When the Act is extended by the Local Government to any territory subordinate to such Government, and such extension is made subject to any restriction, limitation, or proviso, the previous sanction of the Governor-General of India in Council shall be requisite.

Extension of Act to Non-Regulation Provinces.

XL. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and the Courts subordinate to it, also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted, by such Courts, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed under this Section shall be published in the Official Gazette.

Sudder Court to make general rules for regulating proceedings, &c.

XLI. The word "Pleader" as used in this Act shall include the words "Counsel" and "Advocate."

Interpretation of "Pleader.

XLII. Act VIII of 1859 shall be called the Code of Civil Procedure,

Short Title.

XLIII. Repealed by Act XIV of 1870.

XLIV. This Act shall be read and taken as part of Act VIII of 1856.

Construction.

ACT No. XXIV OF 1861.

(Received the assent of the Governor-General on the 21st August 1861.)

1. *Banks may enter into certain arrangements with Government.*
2. *Banks may transact the business incident to such arrangements.*

An Act to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment and exchange or Government Currency Notes and certain usiness hitherto transacted by the Government Treasuries.

WHEREAS it is expedient to authorize the Banks of Bengal, Madras, and Bombay to enter into the agreements and arragements hereinafter mentioned; It is enacted as follows:—

Banks may enter into certain arrangements with Government.

I. It shall be lawful for any of the said Banks, by agreements under their corporate seal, to enter into agreements or arrangements with the Secretary of State for India in Council through the Governor Generel of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council respectively, for superintending, managing, and becoming agents for the issue, payment, and exchange of Promissory Notes of the Government of India, payable on demand under Act XIX of 1861 (*to provide for a Government Paper Currency*) or any Act which may hereafter be passed in relation to the Paper Currency of the Government of India; for the carrying on the business of an Agency of Issue under the said Act XIX of 1861 in any Circle of Issue in which any of the said Banks shall have established a Branch Bank under Act VI of 1839 (*relating to the Bank of Bengal*) or any other Act; and for transacting any part of the busines; of, or hitherto generally transacted by, or at the General Treasuries of the Governments at the several Presidencies of Fort William, Madras, and Bombay respectively.

Banks may transact the business incident to such arrangements.

II. It shall be lawful for the said Banks of Bengal, Madras, and Bombay, in addition t the modes of business in which they may now by the law be respectively engaged, to transact, in accordance with the provisions of the said agreements or arrangements entered into under Section I of this Act, all or any of the business appertaining to the superintendence, management, or agency for the issuing, payment, or exchange in the first Section mentioned, and the business of an Agency of Issue under the said Act XIX of 1861 in any such Circle of Issue as aforesaid, or all or any of the business of, or hitherto generally transaced by, the General Treasuries in the Section mentioned.

ACT NO. XXV OF 1861.

(Received the assent of the Governor-General on the 5th Sept. 1861.)

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Form of Security to be subjoined to the Bond of the Principal.

SCHEDULE.

An Act for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.

WHEREAS it is expedient to simplify the Procedure of the Courts of Criminal Judicature not established by Royal Charter; It is enacted as follows:—

Short title.

1. This Act shall be called the Code of Criminal Procedure.

CHAPTER I.

OF DEFINITIONS.

Interpretation.

2. The following words and expressions in this Act shall have the meanings thereby assigned to them, unless there be something in the subject or context repugnant to such construction.

"British India."

3. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India," except the settlement of Prince of Wales' Island, Singapore, and Malacca.

"Special law."

4. The words "special law" shall denote a law applicable to a particular subject,

"Local law."

5. The words "local law" shall denote a law applicable only to a particular part of British India.

"Moveable property."

6. The words "moveable property" shall include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

Number.

7. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

8. Words importing the masculine gender shall include the feminine.

"Enquired into." "Determined."

9. The words "enquired into" shall be deemed to comprise every proceeding preliminary to trial; and the word "determined" to comprise trial, and every subsequent proceeding, including the punishment of the offender.

"Written."

10. The word "written" shall include "printed," "lithographed," and engraved."

"Criminal Court."

11. The words "Criminal Court" shall denote every Judge or Magistrate lawfully exercising Jurisdiction in criminal cases, whether for the decision of such cases in the first instance, or on appeal, or for commitment to any other Court or Officer.

"Court of Justice."

12. The words "Court of Justice" shall denote a Judge who is empowered by law to act Judicially alone, or a body of Judges empowered by law to act Judicially as a body when such Judge or body of Judges is acting Judicially.

"Court of Session."

13. The words "Court of Session" shall, subject to the limitations in Sections 22, include the Courts of the Assistant Sessions Judges in the Presidency of Bombay.

"Magistrate of the District."

14. The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District in criminal matters by whatever designation such Officer is called.

"Magistrate."

15 The word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate.

"The powers of a Magistrate."

16. The words "the powers of a Magistrate" shall imply the full powers of a Magistrate.

"Any of the powers of a Magistrate."

17. The words "any of the powers of a Magistrate" shall denote powers less than the full powers of a Magistrate.

"District."

18. The local Jurisdiction of the Magistrate of a District shall, for the purposes of this Act, be deemed a "District;" and the local Jurisdiction in a particular part of a District vested in a Magistrate other than the Magistrate of the District, shall be deemed a "Division of a District."

"Division of a District."

"Sudder Court."

19. In any part of British India to which this Act shall be extended, under the provisions of Section 445, the words "Sudder Court" shall denote the highest Criminal Court of Appeal or revision in such part established.

"Year." "Month."

20. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

CHAPTER II.

OF THE JURISDICTION OF THE CRIMINAL COURTS.

Offences cognizable by Criminal Courts.

21. The Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code (Act XLV of 1860) or under any special or

local law (except offences which are by any such law made punishable by some other authority therein specially mentioned), and in the investigation and trial of the offences hereby declared to be within their jurisdiction, shall be guided by the provisions of this Act.

22. The offences mentioned in the Schedule annexed to this Act shall, subject to the provision contained in the third explanatory note prefixed to the said Schedule, be triable by the Courts specified in Column 7 of the said Schedule, and such Courts shall be competent to pass sentence in respect of such offences within the following limits, (that is to say,)

By what Courts the offences named in the Schedule are triable and within what limits such Courts may pass sentence.

The Courts of Session. Death (subject to confirmation by the Sudder Court). Transportation, imprisonment of either description for a period not exceeding fourteen years, including such solitary confinement as is authorized by law, or fine to an unlimited amount or both transportation and fine, or imprisonment and fine, in cases in which both punishments are authorized by the Indian Penal Code. In cases in which, according to the Indian Penal Code, forfeiture of property may be adjudged, the Court of Session may adjudge such forfeiture in addition to the sentence.

In the Presidency of Bombay it shall be lawful for a Sessions Judge to delegate cases for trial by an Assistant Sessions Judge: and such Assistant Sessions Judge shall be competent in such cases to pass sentences within the following limits:—Imprisonment of either description for a term not exceeding seven years (including such solitary confinement as is authorized by law), or fine, or both. If the sentence be one of imprisonment for a term exceeding three years, it shall be passed subject to confirmation by the Session Judge. The Sessions Judge may review and hear appeals against the proceedings of his Assistants, and may confirm and amend (but not so as to enhance), or may reverse their sentences or orders. It shall not be competent to an Assistant Sessions Judge to review or hear an appeal against the proceedings of a Magistrate.

The Magistrate of a District or other Officer outhorized to exercise the powers of a Magistrate. Imprisonment of either description not exceeding the term of two years, including such solitary confinement as is authorized by law, or fine to the extent of one thousand Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Subordinate Magistrates or Officers authorized to exercise any of the powers of a Magistrate—

1st Class. Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

2nd Class. Imprisonment of either description not exceeding one month, or fine not exceeding fifty Rupees, or both imprisonment and fine in all cases in which both imprisonments are authorized by the Indian Penal Code.

No sentence of solitary confinement, under Section 73 of the Indian Penal Code, shall be passed by any Court inferior to an Officer exercising the powers of a Magistrate.

23. The Local Government may invest any person with the powers of a Magistrate or of a Subordinate Magistrate of the first or second class, as described in the last preceding Section, with a view to the exercise, by such person, of such powers under this Act or under any special or local law.

The Government may invest any person with powers of a Magistrate or of a Subordinate Magistrate.

24. The Criminal Courts shall have jurisdiction over all persons, except such persons as, by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras, and Bombay, respectively, or by this Act or any other Act of the Governor-General of India in Council, are, or shall be, exempted from their jurisdiction.

Courts to have jurisdiction over all persons not expressly exempted.

25. No person whatever shall, by reason of place of birth, or by reason of descent, be exempt from the rules of Criminal Procedure contained in this Act. Provided that nothing in this Section shall be held to authorize the trial or commitment for trial before any Criminal Court of any person who, in respect of the offence with which he is charged, is not subject to the jurisdiction of that Court.

No person exempted from Criminal Procedure by reason of birth or of descent.
Proviso.

26. Except where otherwise expressly provided by this Act, every offence shall be enquired into and determined in the District or division of a District in which the offence was committed. Provided that nothing in this Section shall exempt European British Subjects from being tried and convicted before the Supreme Courts of Judicature for offences committed beyond the local limits of such Courts.

Offence to be ordinarily tried in the jurisdiction where it is committed.
Proviso.

27. When a person shall be accused of the commission of any offence by reason of any thing which has been done, and of any consequence which has ensued, such offence may be enquired into or determined in any District or division of

May be tried in the jurisdiction where the act is done, or where

the consequence ensues.

a District in which any such thing shall have been done or any such consequence shall have ensued.

Abetment.

28. The abetment of an offence, wherever such abetment shall have taken place, may be enquired into or determined in any District or division of a District in which the offence abetted may be enquired into or determined by any Court which has jurisdiction to try such offence, as if the abetment had been committed at the same place at which the offence abetted was wholly or partly committed ; or the abetment may be enquired into or determined in any District or division of a District within which the abetter has done any thing for abetting the commission of such offence.

Offence committed on boundary.

29. When any offence shall be committed on the boundary or boundaries of two or more Districts, whether subject to the same local Government or not, or of two or more divisions of a District, or shall be begun in one District or division of a District and completed in another, whether such Districts be subject to the same local Government or not, every such offence may be enquired into or determined in any of such Districts or divisions of a District, in the same manner as if it had been actually and wholly committed therein.

Offence committed during journey, &c.

30. When any offence shall be committed on any person, or on, or in respect of, any property, in or upon any coach, cart or other carriage or conveyance, or upon any beast of burden employed in any journey, or shall be committed on any person, or on, or in respect of, any property on board any vessel employed in any voyage or journey upon any navigable river, canal, or inland navigation, such offence may be enquired into or determined in any District or division of a District, through any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if the offence had been actually and wholly committed in such District or division of a District ; and in all cases where the side, middle, or other part of any highway, or the side, bank, middle, or other part of any such river, canal, or navigation, shall constitute the boundary of any two Districts or divisions of a District, such offence may be enquired into or determined in either of such Districts or divisions of a District, through or adjoining to, or by the boundary of any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if it had actually and wholly been committed in such District or division of a District.

Receiving, &c., stolen property,

31. If any person be charged with any offence punishable under Section 411, 412, or 414 of the Indian Penal Code, under the head "Of the receiving of stolen property," such offence may be enquired into or determined in any District or division of a District in which such person shall have, or shall have had, such stolen property in his possession, or in any District or division of a District in which the offence by which such property came to be stolen property within the meaning of the said Code, may be enquired into or determind.

Being a thug, &c.

32. Whenever any person is charged with being a thug, or with murder as a thug, or with dacoity with or without murder, or with having belonged to a gang of dacoits, or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits, the offence may be enquired into any District in which the accused person is, by any Magistrate competent to commit to a Court of Session, and the accused person may be committed to the Court of Session to which such Magistrate is subordinate.

Escape from lawful custody under sentence.

33. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a commutation of such sentence or shall be charged with any offence punishable under Section 227 of the Indian Penal Code or under Section XII of Act XXIV of 1855 (*relating to Penal Servitude*), the offence may be enquired in to or determined, either in the District or division of a District in which such person shall be apprehended and re-taken or the District or Division of a District in which he was formerly tried, or in the case of an escape from custody, in the District in which he shall have escaped from custody.

Sudder Court to decide when doubt arises as to the jurisdiction where an enquiry shall take place.

34. Whenever any doubt shall arise as to the District in which any offence should be enquired into or determined, it shall be lawful for the Sudder Court within whose jurisdiction the offender is apprehended, to decide in which District the offence shall be determined.

Sudder Court may transfer any case

35. It shall be competent to the Sudder Court to order the transfer of any Criminal case or appeal from a Criminal Court subordinate to its authority,

to any other such Criminal Court of equal or superior Jurisdiction, or to order that any offence shall be enquired into or determined in any District or division of a District, other than that in which the offence shall have been committed, whenever it shall appear to such Sudder Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses.

from one jurisdiction to another.

36. It shall be competent to the Magistrate of the District, or to a Magistrate in charge of a Division of a District, to withdraw any criminal case from any Court subordinate to such Magistrate within his District or division, and to try the case himself, or to refer it for trial to any other such Court competent to try the same.

Magistrate may withdraw any case from a subordinate Court, and try it himself, or refer it to any other such Court.

37. It shall be competent to the Magistrate of the District, or to any other Officer exercising the powers of a Magistrate, to hold the preliminary enquiry into any cases triable by a Supreme Court of Judicature, and to commit or hold to bail persons to take their trial before such Court, and to exercise all the powers necessary for such purpose.

Commitment for trial before the Supreme Court.

38. The local Government may empower any Subordinate Magistrate of the first or second class not vested with such power by any law for the time being in force, to hold the preliminary enquiry into cases triable by the Court of Session, or by any Supreme Court of Judicature, and may empower such Subordinate Magistrate to commit, or hold to bail, persons to take their trial before such Court of Session or Supreme Court, and to exercise all the powers necessary for such purpose.

Subordinate Magistrate may be empowered to prepare cases for trial before the Court of Session or Supreme Court.

39. No person who is not a Justice of the Peace shall commit, or hold to bail any European British Subject to take his trial before a Supreme Court of Judicature.

Only Justices of the Peace empowered to commit European British Subjects for trial.

40. When a European British Subject is charged with an offence triable by a Supreme Court of Judicature, any Magistrate may hear the complaint against such person, and may issue a warrant of arrest, or hold to bail such person with a view to the complaint being investigated by a Justice of the Peace.

Procedure when a European British Subject is charged with an offence triable by Supreme Court.

41. When a European British subject has been arrested under a warrant issued under the last preceding Section by a Magistrate not being a Justice of the Peace, if such Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or if the offence with which such person is charged is bailable, shall, if sufficient bail be tendered, admit him to bail for his appearance before a Justice of the Peace. When the person accused is brought or appears before a Justice of the Peace, under this Section, such Justice of the Peace shall himself hold the preliminary enquiry into the case, before he commits, or holds to bail, such person for trial before the Supreme Court of Judicature.

Procedure when a European is arrested by an Officer not being a Justice of the Peace.

42. Nothing in this Chapter shall interfere with the jurisdiction given by the Statute 53 George III. c. 155, s. 105, or Act VII of 1853 *(to extend the jurisdiction of Magistrates under the 53 George III c. 1855, s. 105. in cases of assault, forcible entries, and other injuries accompanied by force not being felonies).* Provided that the jurisdiction given by the said Statute and the said Act shall be exercised only by a Justice of the Peace.

Saving of jurisdiction given by 53 Geo. III. c. 155, s. 105.

Proviso.

CHAPTER III.

PRELIMINARY RULES.

43. In all Criminal Courts complainants and witnesses shall be examined upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Complainants and witnesses to be examined according to law for time being in force.

44. In cases in which by the sentence or order of any Criminal Court a fine is imposed upon a conviction for any offence made punishable by fine, whether the offence be punishable or punished by fine only or otherwise, it shall be lawful for such Court to order that the fine or any part thereof not exceeding the loss appearing to be caused to the person who has suffered by such offence, and any special damage of a pecuniary nature that may have resulted to such person by such offence, and any expenses incurred by the complainant in the prosecution, as the Court may consider reasonable and proper, be paid to or for the benefit of such person according to the discretion of the Court, and in every such case the fine when levied or paid shall be paid and distributed accordingly. If the fine be awarded by a Court whose decision is subject to revision, the amount awarded

Court may apply portion of fine in compensation for loss or damage caused, &c.

to the person injured shall not be paid to such person until a period of two months shall have elapsed from the date of the award.

Imprisonment in default of payment of fine.

45. In every case punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of Sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine. Provided that in every such case decided by a Magistrate, the period of imprisonment awarded in default of payment of the fine shall, in no case, exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso.

Sentence in cases of conviction of two or more offences.

46. When a person shall be convicted at one time of two or more offences punishable under the same or different Sections of the Indian Penal Code, it shall be lawful for the Court to sentence such person for the offences of which he shall have been convicted to the several penalties prescribed by the said Code which such Court is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other. It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which such Court is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court. Provided that in no case shall the person be sentenced to imprisonment for a longer period than fourteen years; and provided also, that if the case be tried by a Magistrate, the punishment shall not in the aggregate exceed twice the extent of punishment which such Magistrate is by his ordinary jurisdiction competent to inflict.

Proviso.

Currency of sentence of escaped convicts.

47. When sentence shall be passed on an escaped convict for such escape or for any other offence, the Court may direct such sentence to take effect immediately, or after such escaped convict shall have suffered imprisonment or transportation, as the case may be, for a further period equal to that which remained unexpired of his former sentence at the time of his escape.

Judgment on offender already imprisoned under sentence for another crime.

48. When sentence shall be passed on a person already under sentence of imprisonment or transportation for another offence, the Court, if the sentence be for imprisonment, shall direct that such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person shall have been previously sentenced, or if such person shall be undergoing a sentence of imprisonment, and the sentence, on such subsequent conviction, be for transportation, the Court may direct that the sentence shall commence immediately or at the expiration of the imprisonment to which such person shall have been previously sentenced. Provided that nothing in this Section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

Proviso.

Local Government may order removal of a prisoner from one jail to another.

49. When any person is sentenced to imprisonment, it shall be lawful for the local Government to order the removal of such person during the period prescribed for his imprisonment from the jail or place in which he is confined to any other jail or place of imprisonment within the jurisdiction of the same local Government.

Place of transportation not to be specified in sentences.

50. When any person shall be sentenced to transportation, the Court passing the sentence shall not specify in its sentence the place to which such person shall be sent for the purpose of undergoing the sentence.

G. G. in C. to appoint a place or places.

Local Government to direct removal of persons sentenced to such place or places.

51. It shall be lawful for the Governor-General of India in Council from time to time to appoint a place or places within British India to which persons sentenced to transportation shall be sent: and the local Government, or some Officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed.

Execution of sentences of transportation passed on persons already undergoing transportation under a previous sentence.

52. When sentence of transportation shall be passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the local Government to order the removal of such person from the place in which he is so undergoing transportation.

Sentence of death.

53. When any person shall be sentenced to death, the sentence shall direct that such person be hanged by the neck till he is dead.

The power of Government to remit penalties.

54. When any person has been sentenced to punishment for an offence, the Governor-General of India in Council, or the local Government, may, at any time, without conditions, or upon any conditions which such person shall accept, remit the whole or any part of the punishment to which he shall have been sentenced.

Party tried upon formal charge not liable to renewed prosecution.

Proviso.

55. A person who has once been tried for an offence and convicted or acquitted of such offence, shall not be liable to be tried again for the same offence. Provided that any person may be tried for the offence of culpable homicide and punished for that offence, notwithstanding he may have been tried and punished for the act which caused the death, if at the time of his conviction for the said act

death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

A person charged with criminal breach of trust may be found guilty of theft.

56. If upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or of criminal breach of trust as a carrier, wharfinger or warehouse-keeper under Section 407 of the said Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section378,and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under the said Section 378.

A person charged with criminal breach of trust as a servant may be found guilty of theft, or of theft as a servant.

57. If upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the said offence charged, but is guilty of the said offence under the said Section 378, or Section 381, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft may be found guilty of misappropriation or breach of trust.

58. If upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel under Section 380 of the said Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 403, or Section 405, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft as a servant may be found guilty of misappropriation.

59. If upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his Master, under Section 381 of the Indian Penal Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404 the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the offence under the said Section 403, Section 404, Section 405, or Section 408, as the case may be : and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

No person charged under the last four Sections, and found guilty, liable to be charged again.

60. No person charged and tried for an offence under any Section of the Indian Penal Code in the last four Sections of this Act mentioned, and found guilty of another offence under the provisions of any other of the said Sections of the Indian Penal Code, shall be liable to be afterwards prosecuted upon the same facts under the Section under which he was charged, or under the Section under which he was found guilty.

Levy of fines.

61. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment, to issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender which may be found within the jurisdiction of the Magistrate of the District.

Magistrate may issue orders to prevent obstructions, &c.

62. It shall be lawful for any Magistrate, by a written order, to direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, whenever such Magistrate shall consider that such direction is likely to prevent, or tends to prevent, obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons

lawfully employed, or is likely to prevent, or tends to prevent, danger to human life, health, or safety, or is likely to prevent, or tends to prevent, a riot or an affray.

Magistrate may prohibit the repetition or continuance of public nuisances.

63. Any Magistrate may enjoin any person not to repeat or continue a public nuisance.

CHAPTER IV.

OF THE SUMMONS.

Proceeding to compel appearance.

64. When an offence has been committed, or is supposed to have been committed, the proceeding, in order to compel the person known or suspected to have committed such offence to appear for the purpose of enquiry concerning the same. may be by summons or arrest.

Complaint.

65. A summons or a warrant of arrest may be obtained on a complaint as hereinafter provided.

Examination of complaint.

66. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made before the Magistrate of the District, or a Magistrate who is authorized to receive such complaint without reference from the Magistrate of the District, such Mag istrate shall examine the complainant. The examination shall be reduced into writing, and shall be signed by the complainant, and also by the Magistrate.

Magistrate how to proceed on complaint.

67. The Magistrate before whom such complaint is duly made shall, if it appear to him that there is sufficient ground for proceeding, issue his summons, or in cases in which a warrant may issue, his warrant, for causing the person accused to appear before himself or some other Magistrate having jurisdiction. If in the judgment of such Magistrate there be no sufficient ground for proceeding, he shall dismiss the complaint.

Magistrate may take cognizance of offences without complaint made.

68. Except as is otherwise provided in Chapter XI of this Act, the Magistrate of the District, or a Magistrate in charge of a division of a District, may, without any complaint, take cognizance of any offence which may come to his knowledge and may issue a summons, or in cases where a warrant may issue, a warrant of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.

Proviso.

The provisions of this Section shall not apply to the offences described in Chapters XIX, XX, and XXI of the Indian Penal Code.

Summons, what it is to contain, and how to be directed.

69. Every summons issued by a Magistrate to an accused person shall be in writing and shall be signed and sealed by such Magistrate, and shall be in the form (A) given in the Appendix or to the like effect.

Summons by whom to be served.

70. A summons shall ordinarily be issued through a Police Officer; but the Magistrate issuing the summons may, if immediate service be necessary and no Police Officer be immediately available, direct the summons to be served by any other person.

Summons how to be served.

71. The summons shall be served on the accused personally, or in case the accused person shall not be found, it may be left for him with some adult male member of his family residing with him.

Mode of service if accused cannot be found, &c.

72. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving Officer shall fix a copy of the summons on some conspicuous part of the house in which the accused person ordinarily resides.

Notwithstanding summons, warrant may issue in certain cases.

73. A Magistrate may (notwithstanding such summons), either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person

Summons or warrant when grantable for an offence committed beyond local jurisdiction.

74. The Magistrate of the District or a Magistrate in charge of a division of a District, may issue a summons or warrant for the apprehension of any person within such District or division of a District in respect of any offence known or suspected to have been committed by such person in a different District or division of a District, or on the high seas, or in a foreign country, and for which, if committed within the jurisdiction of such Magistrate, he might issue a summons or warrant.

Provisions in this Chapter relating to a summons and its issue applicable to all summonses,

75. The provisions relating to a summons and its issue contained in this Chapter, shall be applicable to every summons issued under this Act.

CHAPTER V.

OF THE WARRANT AND ITS EXECUTION.

Form of warrant.

76. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate and shall be in the form (B) given in the Appendix, or to the like effect.

77. A warrant shall ordinarily be directed to a Police Officer, but the Magistrate issuing a warrant may, if immediate service be necessary and no Police Officer be immediately available direct the warrant to any other person.

Warrants to whom to be directed.

78. When a warrant is directed to a person other than a Police Officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

When directed to any person other than a Police Officer.

79. A warrant may be directed to several persons, and when so directed, may be executed by all, or by any one or more of such persons.

To several persons jointly.

80. A warrant directed to a Police Officer may also be executed by any other Police Officer whose name shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

Police Officer may endorse warrant to another Officer.

81. The Magistrate by whom a warrant of arrest is issued, may attend personally for the purpose of seeing that the warrant is duly executed. The magistrate may also at any time direct the arrest in his presence of any person for whose arrest he is competent to issue a warrant.

Magistrate issuing a warrant may personally superintend its execution.

82. Every person is bound to assist a Magistrate or Police Officer demanding his aid in the prevention of a breach of the peace, or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate or Police Officer is authorized to arrest.

All persons bound to assist in certain cases.

83. A warrant issued by a Magistrate shall ordinarily be executed (unless it be specially otherwise provided) within the jurisdiction of the Magistrate of the District in which it was issued.

Where a warrant of a Magistrate must be executed.

84. When any person against whom a warrant is issued by a Magistrate shall escape, go into, or be, in any place out of the jurisdiction of the Magistrate issuing such warrant, the warrant may be executed in such place; and if the person against whom the warrant is issued is arrested in such place, the Police Officer, or other person executing the warrant, shall carry him before the Magistrate of the District, or some other Magistrate within whose jurisdiction the arrest was made. If the offence with which the person arrested is charged be bailable, and such person shall be willing and ready to give bail for his appearance before the Magistrate by whom the warrant was issued, the Magistrate before whom such person is brought, shall take bail of such person for his appearance accordingly, and shall release him from custody, and forward the recognizance or other bail-bond to the Magistrate by whom the warrant was issued. If the offence be not bailable, or if the person arrested be unable to find bail, he shall be forwarded to the Magistrate by whom the warrant was issued. If the arrest be made within the local limits of the jurisdiction of a Supreme Court of Judicature, the person accused, when arrested, shall be taken before the Chief Commissioner of Police, or a Police Magistrate. Such Chief Commissioner or Police Magistrate shall forward the person arrested to the Magistrate by whom the warrant was issued, or if the offence with which the person arrested is charged be bailable, shall admit him to bail, and shall forward the recognizance or other bail-bond to such Magistrate.

Warrant executed in another jurisdiction.

If arrest be made within the jurisdiction of a Supreme Court.

85. If the place of arrest, under the last preceding Section, be within twenty miles from the place at which the warrant was issued, the person arrested may be carried, in the first instance, before the Magistrate who issued the warrant.

If arrest be made within 20 miles, person arrested may be carried before the Magistrate who issued the warrant.

86. It shall be competent to a Magistrate issuing a warrant for the arrest of a person out of his Jurisdiction, to direct the warrant to the Magistrate of the District in which such person is, or is supposed to be, and to transmit the same by post. On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name on such warrant, and enforce its execution in the same manner as if the warrant had been originally issued by himself. If the person named in the warrant be apprehended, he shall be carried before the Magistrate who endorsed the warrant, and shall be dealt with by such Magistrate as provided in Section 84 of this Act.

Warrant to be endorsed may be sent by post.

87. A warrant issued under the last preceding Section for execution within the local limits of a Supreme Court of Judicature, shall be directed to the Chief Commissioner of Police or to a Police Magistrate, who shall proceed in the manner provided in Section 84 of this Act.

Warrants for execution within limits of Supreme Court to be addressed to Chief Commissioner or Magistrate of Police.

88. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of Section 74 of this Act, in respect of an offence known or suspected to have been committed in another District or division of a District, the Magistrate who issued the warrant shall, unless he is authorized to complete the enquiry himself, send the person arrested to the Magistrate within the limits of whose Jurisdiction the offence is known or suspected to have been

Magistrate how to proceed on arrest under his own warrant for an offence committed out of his jurisdiction.

committed, or take bail for appearance before such Magistrate, if the offence of which such person is suspected is bailable. When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the Sudder Court.

Subordinate Magistrate how to proceed in such cases.

89. If the arrest was made under a warrant issued under Section 74 of this Act by a Magistrate subordinate to the Magistrate of the District, such Magistrate shall send the person arrested to the Magistrate of the District, unless the Magistrate in whose Jurisdiction the offence is suspected to have been committed, shall issue his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police Officer or other person executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued. If the offence of which the person arrested is suspected, s all have been committed in the jurisdiction of another Subordinate Court of the same District, the Magistrate who issed the warrant under Section 74 of this Act, shall send the person arrested to the Magistrate in charge of the division in which the offence was committed.

Notification of substance of the warrant.

90. A Police Officer or other person executing a warrant of arrest shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

Warrant how to be executed.

91. In making an arrest, the Police Officer or other person executing the warrant shall actually touch or confine the body of the person to be arrested unless there be a submission to the custody by word or action.

Resisting an endeavour to arrest.

92. If a person against whom a warrant of arrest is issued, shall forcibly resist the endeavour to arrest him, it shall be lawful for the Police Officer or other person executing the warrant, to use all such means as may be necessary to effect the arrest.

Search of house entered into by person against whom warrant has been issued.

93. If there is reason to believe that any person, against whom a warrant has been issued, has entered into, or is within any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police Officer or other person executing the warrant, to allow such Police Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Breaking open outer door or window.

94. The Police Officer or other person authorized by warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused. or of any other person, in order to execute such warrant, if, after notification of his authority and purpose, and demand of admittance duly made he cannot otherwise obtain admittance.

Breaking open a zenanah or female apartment.

95. If information be received that a person accused of any offence, for which a warrant may issue, is concealed in a zenanah or apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Police Officer or other person employed to execute the warrant, shall take such precautions as may be necessary to prevent the escape of the accused person, and if the accused person shall not deliver himself up, the Police Officer or other person authorized to execute the warrant may, if after notification of his authority and purpose, and demand of admittance duly made he cannot otherwise obtain admittance, break open such zenanah or apartment, and execute the process intrusted to him ; first giving notice to any woman as aforesaid in such zenanah or apartment, not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and affording her every reasonable facility for withdrawing.

No unnecessary restraint.

96. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Party arrested to be forthwith taken before the Magistrate.

97. The Officer or other person executing the warrant shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

No threat promise, or caution as to disclosure by party arrested.

98. No Police Officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure. But no Police Officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will

Provisions in this Chapter relating to a warrant and its issue applicable to all warrants.

99. The provisions relating to a warrant and it s issue contained in this Chapter, shall be applicable to every warrant issued under this Act.

CHAPTER VI.

OF ARREST WITHOUT WARRANT.

Police Officer may arrest without warrant in certain cases.

100. A Police Officer in the cases hereinafter mentioned may, without orders from a Magistrate and without a warrant, arrest—

First.—Any person who in the sight of such Police Officer shall commit an offence specified in Column 3 of the Schedule annexed to this Act, as an offence for which Police Officers may arrest without a warrant.

Secondly.—Any person against whom a reasonable complaint has been made, or a reasonable suspicion exists of his having been concerned in any such offence.

Thirdly.—Any person against whom a hue and cry has been raised of his having been concerned in any such offence.

Fourthly.—Any person who is a proclaimed offender.

Fifthly.—Any person who is found with stolen property in his possession.

Sixthly.—Any person who shall obstruct a Police Officer while in the execution of his duty.

Vagabonds.

101. An Officer in charge of a Police Station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person found lurking within the limits of such Station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, or any person who is a reputed robber, house-breaker, thief, receiver of stolen property knowing it to be stolen, or who is of notoriously bad livelihood.

Police may interfere to prevent offences.

102. It shall be the duty of every Police Officer to prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in Column 3 of the Schedule annexed to this Act as an offence for which Police Officers may arrest without a warrant.

Information to be communicated.

103. It shall be the duty of a Police Officer who shall receive information of a design to commit any such offence, to communicate such information to the Police Officer to whom he is subordinate, and to any other Officer whom it may concern to prevent or take cognizance of the commission of any such offence.

May arrest to prevent offences.

104. A Police Officer, knowing of a design to commit any such offence as aforesaid, may arrest, without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

Injury to public property.

105. A Police Officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, well, or water-channel, or to prevent the removal or injury of any public land-mark or buoy, or other mark used for navigation.

Person in charge of house entered into by another of whom Police Officer is in search to allow ingress, &c.

106. If there is reason to believe that any person liable to arrest under this Chapter without a warrant, of whom a Police Officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or place, on the demand of such Police Officer, to allow ingress thereto, and all reasonable facilities for a search therein.

Procedure if ingress be not obtained.

107. If ingress to such house or place cannot be obtained under the last preceding Section, the Police officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested and send immediate information to a Magistrate. If no warrant can be obtained without affording such person, an opportunity of escape, and there is no person authorized to enter without a warrant on the spot, the Police Officer may make an entry into such house or place and search therein.

Person charged with an offence refusing to give his name and residence.

108. Any person who is known or suspected to have committed an offence for which a Police Officer is not authorized to arrest without a warrant, and who shall refuse on demand of a Police Officer to give his name and residence, or shall give a name or residence which there is reason to believe to be false, may be detained by such Police Officer for the purpose of ascertaining the name or residence of such person and with a view to future proceedings.

Party arrested to be forthwith taken before the proper authority.

109. A Police Officer having made an arrest under this Chapter, shall take or send the person arrested without unnecessary delay before the Magistrate who has jurisdiction in the case, or before the Officer in charge of a Police Station.

Arrest for an offence committed in the sight of a Magistrate.

110. When any offence is committed in the presence of a Magistrate, such Magistrate may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

Unlawful assembly to disperse on the order of a Magistrate, &c.

111. A Magistrate or Officer in charge of a Police Station may command an unlawful assembly to disperse, and it shall thereupon be the duty of the members of such unlawful assembly to disperse accordingly.

CHAPTER VII.

OF ESCAPE AND RE-TAKING.

Person arresting may re-take on escape and deal with the

112. If a person lawfully arrested under the provisions of this Act shall escape, or be rescued, it shall be lawful for the Police Officer or other person from whose custody the person so arrested shall have escaped, or have been rescued, to

party arrested as on original taking.

make fresh pursuit, and re-take him in any place, either within or without the jurisdiction where he was so in custody, and to deal with such person as such Police Officer or other person might have done on an original taking.

May adopt the same measures as on original taking.

113. In order to re-take any person, as provided in the last preceding Section, the Police Officer or other person making such fresh pursuit may adopt the same measures as he might have adopted on the original taking.

CHAPTER VIII.

OF SEARCH WARRANT.

When granted by a Magistrate.

114. When a Magistrate shall consider that the production of any thing is essential to the conduct of an enquiry into an offence known or suspected to have been committed, he may grant his warrant to search for such thing; and it shall be lawful for the Officer charged with the execution of such warrant to search for such thing in any house or place within the jurisdiction of such Magistrate. In such case the Magistrate may specify in his warrant the house or place, or part thereof, to which only the search shall extend.

Warrant how to be directed.

115. A search warrant shall ordinarily be directed to a Police Officer, but the Magistrate issuing the search warrant may, if immediate search is necessary, and no Police Officer be immediately available, direct the warrant to any other person.

Warrant to one Police Officer may be executed by another.

116. A search warrant directed to an Officer in charge of a Police Station may, if such Officer is not able to proceed in person, be executed by any Officer subordinate to such Officer. In such case the name of such subordinate Officer shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

Warrant how to be executed out of jurisdiction of the Magistrate.

117. When it shall be necessary for a search warrant to be executed out of the Jurisdiction of the Magistrate issuing the warrant, the Magistrate within whose Jurisdiction the warrant is to be executed shall endorse his name on the warrant, which shall be sufficient authority for the Police Officer charged with the execution of such warrant to execute the same within the said Jurisdiction, or the search warrant may be directed to the Magistrate within whose Jurisdiction the search is to be made, and such Magistrate shall thereupon endorse his name on such warrant and enforce its execution in the same manner as if the warrant had been issued by himself.

Search warrants may be executed without endorsement in cases of emergency.

118. In any case in which there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose District the warrant is to be executed, will prevent the discovery of the thing for which search is to be made, the Police Officer charged with the execution of the search warrant may execute the same in any place beyond the jurisdiction of the Magistrate by whom it was issued without the endorsement of the Magistrate in whose jurisdiction that place is situate. If the thing for which search is made is found in such place, it shall be immediately taken before the Magistrate in whose jurisdiction it is found, and who, unless there be good cause to the contrary, shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Procedure in such cases within local limits of the Supreme Court.

119. If the thing searched for be found within the local limits of a Supreme Court of Judicature it shall be taken to the Chief Commissioner of Police or to a Police Magistrate, who shall act in the manner prescribed in the last preceding Section.

Magistrate may when necessary issue search warrant to be executed in the jurisdiction of another Magistrate.

120. In any case in which it may appear necessary, a Magistrate may, by the warrant, order search to be made in a place out of his Jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose Jurisdiction the search is to be made. When a Magistrate issues a warrant under this Section, he shall inform the Magistrate within whose Jurisdiction the house or place to be searched is situate, or if the house or place be situate within the local limits of any Supreme Court of Judicature, he shall inform the Chief Commissioner of Police of the issue of such warrant.

Magistrate may send his search warrant by post to the Magistrate of another District.

Procedure to be observed by such Magistrate.

121. It shall be competent to a Magistrate issuing a warrant for the search of any house or place out of the jurisdiction of the Magistrate of the District, to direct the warrant to the Magistrate of the District in which such house or place is situate, and to transmit the same by post. On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name on the warrant and enforce its execution in the same manner as if the warrant had been originally issued by himself. If the warrant is to be executed within the local limits of any Supreme Court of Judicature, it shall be addressed to the Chief Commissioner of Police or to a Police Magistrate. In such case any property found on search made, may be dealt with as provided in Sections 118 and 119 of this Act.

122. If the house or place to be searched is closed, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Officer or other person executing the warrant,, to allow such Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Persons in charge of dwelling house, &c., to allow the search.

123. A Police Officer, or other person authorized by a warrant to search any house or place may break open any outer or inner door or window of the house or place, in order to execute such warrant, if after notification of his authority and purpose, and demand of admittance duly made he cannot otherwise obtain admittance.

Place to be searched may be broken open.

124. If the place ordered to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Officer or other person charged with the execution of the warrant shall give notice to such woman in such zenanah or apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw, and, after giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer or other person may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

Breaking open zenanah or female apartment.

125. The search of any house or place under this Chapter shall be made in the presence of two or more respectable inhabitants of the place in which the house or place searched is situate, but such persons shall not be required to attend the Court of the Magistrate as witnesses unless specially summoned by such Magistrate. The occupant of the house or place or some person in his behalf shall, in every instance, be permitted to attend during the search.

Search of house &c. to be made in the presence of witnesses.

Occupant of the place searched may attend.

126. In any case in which it shall be necessary to cause a female to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

Mode of searching females.

127. If the Magistrate of the District or a Magistrate in charge of a division of a District, upon information and after such enquiry as he may think necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents or counterfeit Government Stamps or counterfeit coin, or instruments or materials for counterfeiting coin, or for forging, or that any forged documents or counterfeit stamps or false seals or any counterfeit coin or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any house or other place, he may by his warrant authorize any Police Officer above the rank of a constable, peon or burkundaz to enter, with such assistance as may be required, and by force if necessary, any such house or other place, and to search all such parts of the same as shall be specified in the warrant, and to seize and take possession of any stolen property, documents, stamps, seals, or coins therein found which he may reasonably suspect to be forged, stolen, false, or counterfeit, and also of any such instruments and materials as aforesaid.

Search of house, &c., suspected to contain forged documents, &c.

128. The Magistrate by whom a search warrant is issued, may attend personally for the purpose of seeing that the warrant is duly executed. The Magistrate may also direct a search to be made in his presence of any house or place, for the search of which he is competent to issue a search warrant.

Magistrate may attend personally.

129. An Officer in charge of a Police Station may, without a warrant enter any shop or premises within the limits of such Station for the purpose of inspecting or searching for any weights or measures or instruments for weighing used or kept therein, whenever he shall have reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false. If such Police Officer shall find in such shop on premises any weights, measures, or instruments that are false, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

Inspection of weights and measures used in shops.

130. The seizure by any Police Officer of property alleged or suspected to have been stolen, or of property seized by any Police Officer under circumstances which create suspicion of the committal of any offence, shall be forthwith reported to the Magistrate of the District, who shall thereupon make such order respecting the custody and production of the property as he shall think proper.

Procedure by Police Officer upon seizure of stolen property found on an offender.

131. When any such property shall be unclaimed, the Magistrate of the District may detain the same and shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may

Procedure if such property be unclaimed.

have a claim to the property to appear and establish his claim thereto within six months from the date of such proclamation.

Procedure if no claimant appear within six months from date of the proclamation.

132. If no person shall, within the period allowed, claim such property, and if the person in whose possession such property, was found shall be unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District.

CHAPTER IX.

PRELIMINARY ENQUIRY BY THE POLICE.

Police Officers to make enquiry into certain offences only when directed to do so by the Magistrate.

133. No Police Officer shall, without an express order from a Magistrate, enquire into or take cognizance of any offence punishable under the Indian Penal Code, other than the offences described in Column 3 of the Schedule annexed to this Act, as offences for which a Police Officer may arrest without warrant. But it shall be competent to a Magistrate, upon the report of a Police Officer or otherwise, to direct enquiry to be made by a Police Officer into any offence punishable under the Innian Penal Code or under any special or local law.

Saving of powers vested in Police Officer by any special or local law.

134. Nothing in the last preceding Section shall be held to interfere with the exercise of any powers which are vested in a Police Officer by any special or local law, or with the performance of any duty which is imposed upon a Police Officer by any such special or local law.

Upon complaint preferred, Officer in charge of Police Station to proceed in person or to send a subordinate Officer to make enquiry.

135. Upon complaint or information being preferred to an Officer in charge of a Police Station of the commission within the limits of such Station of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without warrant he shall send immediate intimation to the Magistrate having jurisdiction, and shall proceed in person or shall depute one of his subordinate Officers to proceed to the spot to enquire into the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and apprehension of the offender. Any Magistrate, on receiving intimation of the commission of any such offence, may at once proceed, or depute an Officer exercising any of the powers of a Magistrate, to proceed to hold a preliminary enquiry into or otherwise to dispose of such case in the manner provided in this Act.

Except in cases not of a serious nature where local enquiry is not necessary.

136. Provided that when any complaint is made against any person by name and the case is not of a serious nature, it shall not be incumbent on the Officer in charge of a Police Station to proceed in person or to depute a subordinate Officer to make an enquiry on the spot, unless such local enquiry shall appear to be necessary.

If Officer in charge of Police Station see no sufficient ground for an enquiry.

137. If on any complaint or information being preferred to an Officer in charge of a Police Station, it shall appear to such Officer that there is no sufficient ground for entering on an enquiry, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall abstain from proceeding in the case and shall report the substance of the complaint or information for the orders of the Magistrate.

All persons to give information of offences.

138. It shall be the duty of every person who is aware of the commission of any offence made punishable under Sections 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, or 460, of the Indian Penal Code, to give information of the same to the nearest Police Officer, whenever he shall have reason to believe that, if such information be withheld, the person who committed the offence may not be brought to justice, or may have his escape facilitated.

Complaint, &c., to be in writing.

139. Every complaint or information preferred to an Officer in charge of a Police Station, shall be reduced into writing, and the substance thereof shall be entered in a diary to be kept by such Officer, in such form as shall be prescribed by the local Government.

Procedure, when any Police Officer deputes another.

140. When any Officer in charge of a Police Station requires any Officer, subordinate to him, to make without a warrant an arrest which may lawfully be made by such Officer without a warrant, he shall deliver to the Police Officer required to make such arrest, an order in writing, specifying the person to be arrested and the offence for which the arrest is to be made.

Police may pursue offenders into other jurisdictions.

141. It shall be lawful for a Police Officer to pursue, with a view to arrest, any person accused of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without a warrant, into the limits of another Police Officer, whether subordinate to the same Magistrate as himself, or the Magistrate of any other District, and whether such place be under the same local Government or not.

142. Whenever an Officer in charge of a Police Station shall consider that the production of any thing is essential to the conduct of an enquiry into any offence which he is authorized to investigate, it shall be lawful for him to search or cause a search to be made for the same, in any house or place within the limits of such Station. In such case, the Officer in charge of the Police Station shall, if practicable, conduct the search for such thing in person. If unable to conduct the search in person, and there is no other person competent to make the search present at the time, it shall be lawful for the Officer in charge of the Police Station to require any Officer subordinate to him to make the search, and he shall deliver to such Officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and it shall thereupon be lawful for such Subordinate Officer to search for such property in such house or place. The provisions of Sections 122, 123, 124, and 125 of this Act relating to seach warrants, shall be applicable to a search made by or under the direction of an Officer in charge of a Police Station under this Section.

Issue of search warrants by Officer in charge of Police Station.

143. An officer in charge of a Police Station may require an Officer in charge of another Police Station, whether subordinate to the same Magistrate as himself or to a Magistrate of another District, to cause a search to be made in any house or place in any case in which he might cause such search to be made within the limits of his own Station.

When one Officer of a Police Station may require another to issue a search warrant.

144. An Officer in charge of a Police Station may, by an order in writing, require the attendance before himself of any person being within the limits of his Station, who, from the statement of the complainant or otherwise, appears to be acquainted with the facts and circumstances of any case into which he is enquiring under Section 135 of this Act, and such person shall be bound to obey such requisition.

Witnesses to be summoned.

145. It shall be lawful for an Officer in charge of a Police Station or other Police Officer making an enquiry, to examine orally any person who is supposed to be acquainted with the facts and circumstances of the case. Nothing in this Section shall preclude such Police Officer from reducing into writing any statement made by the person so examined. Provided that any statement so reduced into writing shall not be signed by the person making it, nor shall it be treated as part of the record or used as evidence.

Oral examination of witnesses by Police.

Proviso.

146. No Police Officer or other person shall offer any inducement to an accused person by threat or promise or otherwise to make any disclosure or confession.

No inducement to be offered to an accused person to confess.

147. No Police Officer shall record any statement or any admission or confession of guilt, which may be made before him by a person accused of any offence. Provided that nothing in this Section shall preclude any Police Officer from reducing any such statement or admission or confession into writing for his own infromation or guidance.

Police not to record confessions.

Proviso.

148. No confession or admission of guilt made to a Police Officer, shall be used as evidence against a person accused of any offence.

Confession made to a Police Officer shall not be used as evidence.

149. No confession or admission of guilt made by any person whilst he is in the custody of a Police Officer, unless it be made in the immediate presence of a Magistrate, shall be used as evidence against such person.

Confession made while the accused is in custody of the Police shall not be used as evidence.

150. When any fact is deposed to by a Police Officer as discovered by him in consequence of information received from a person accused of any offence, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact discovered by it may be received in evidence.

Police Officer may give in evidence so much of any statement or confession made by the accused as relates distinctly to a fact thereby discovered.

151. If the person arrested appears from the information obtained to have committed the offence charged, and the offence is not bailable, the Officer in charge of the Police Station shall forward him under custody to the Magistrate having jurisdiction in respect of the offence, and shall bind over the prosecutor and witnesses to appear on a fixed day before such Magistrate. When any Subordinate Police Officer has made any enquiry under this Chapter, he may be required by the officer in charge of the Police Station to submit a report of such enquiry to him, or may do so without such instructions, and the Officer in charge of the Police Station shall then proceed as if he had made the enquiry himself.

Enquiry by the Police.

152. No Police Officer shall, without the special order of a Magistrate, detain an accused person in custody for a longer period than, under all the

Accused not to be detained by the Police

beyond 24 hours without special authority.

circumstances of the case, is reasonable such period in no case to exceed twenty-four hours. If the enquiry has not been completed within twenty-four hours, the Officer in charge of the Police Station shall nevertheless, foward the accused to the Magistrate with a short despatch stating the offence for which the accused has been arrested, if there are grounds for believing that the accusation is well founded.

Police how to proceed in cases of deficient evidence.

153. If it shall appear to the Officer in charge of the Police Station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of the accused person to the Magistrate, he shall release the accused on bail, or on his own recognizance, to appear when required and shall submit a report of the case for the orders of the Magistrate.

Daily record of proceedings.

154. Police Officer making an enquiry under this Chapter, shall day by day enter his proceedings in a diary setting forth the time at which the complaint or other information reached him, the time at which he began and closed his enquiry, the place or places visited by him, and a statement of the circumstances elicited by his enquiry, and shall forward day by day a copy of such diary to the District Superintendent of Police, who shall without delay bring to the notice of the Magistrate of the District any part of such diary which he shall consider it to be important that such Magistrate shall know. The Magistrate of the District shall be entitled to call for and inspect such diary. In cases where there is no District Superintendent of Police, the Police Officer shall forward day by day a copy of the diary to the Magistrate of the District. Such diary shall not be evidence of the facts stated therein, except against the Police Officer who made it.

Report of Police Officer of what to consist.

155. The enquiry shall be completed without unnecessary delay, and as soon as it is completed, the Policer Officer making the enquiry shall forward to the Magistrate a report in such form as shall be prescribed by the local Government, setting forth the names of the parties, the nature of the complaint, and the names of the witnesses, without any expression of opinion as to the guilt of the accused person, and shall also transmit any weapon or article which it may be necessary to produce before the Magistrate. The Police Officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance. If the accused person be detained in custody, he shall state the fact and the cause of this detention.

Bail.

156. A person accused of any offence entered as not bailable in Column 5 of the Schedule annexed to this Act, shall not be admitted to bail, if there appear reasonable ground for believing that he has been guilty of the offence imputed to him. But a person accused of any other offence shall be admitted to bail, if sufficient bail be tendered for appearance before the Magistrate having jurisdiction in respect of the offence.

Bail not to be excessive. Terms of security.

157. The bail to be taken under the last preceding Section shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the accused person before the Magistrate on or before a fixed day, to answer the complaint.

Prosecutors and witnesses shall execute recognizances to appear before the Magistrate.

158. Every prosecutor and witness, whose attendance before the Magistrate may be deemed necessary by the Police Officer making the enquiry, shall execute a recognizance in the form (E) given in the Appendix, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day, which shall be the day whereon the accused person is to appear, if he shall have been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate if he is to be forwarded in custody. The Officer in whose presence the recognizance is executed, shall forward it with his report to the Magistrate, and shall deliver to the prosecutor and witnesses a duplicate of the despatch. The prosecutor or witnesses, unaccompanied by any Police Officer, shall be required to deliver in person such duplicate to the Magistrate.

Prosecutors and witnesses not to be subjected to any restraint.

159. A Police Officer shall not subject any prosecutor or witness to restraint or unnecessary inconvenience, nor require them to give any other security for their appearance than their own recognizances; but if any prosecutor or witness shall refuse to attend, or to execute the recognizance directed in the last preceding Section, it shall be competent to the Officer in charge of a Police Station to forward such prosecutor or witness under custody to the Magistrate, who may detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the hearing before the Magistrate.

Recusant prosecutor or witness may be forwarded in custody.

Police to report all arrests.

160. Officers in charge of Police Stations shall report to the Magistrate of the District the cases of all persons apprehended within the limits of their respective Stations, whether such persons shall have been admitted to bail or otherwise; and no person who has been apprehended shall be discharged, except on bail, or on his own recognizance, or under the special order of a Magistrate.

161. It shall be the duty of the Officer in charge of a Police Station, on receiving notice or information of the unnatural or sudden death of any person, immediately to give intimation to the nearest Magistrate, and to proceed to the place where the body of such deceased person is, and there in the presence of two or more respectable inhabitants of the neigbourhood, to make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted. The report shall be signed by such Police Officer and other person, sor by so many of them as shall concur therein, and shall be forthwith forwarded to the Magistrate. When there may be any doubt regarding the cause of death, such Police Officer shall forward the body with a view to its being examined by the Civil surgeon, if the state of the weather and distance will admit of its being so forwarded without risk of putrefaction on the road. In the Presidencies of Madras and Bombay, it shall be the duty of the Head of the Village in like manner to make the enquiry and report as aforesaid.

Police to make immediate enquiry and report on sudden and unnatural deaths.

162. The powers to be exercised by an Officer in charge of a Police Station under this Chapter, shall be exercised in the event of his absence or illness by the Police Officer next in rank present at the Police Station, above the rank of a constable, peon, or burkundaz.

By whom the powers of the Officer in charge of Police Station may be exercised in his absence or illness.

CHAPTER X.

OF CONTEMPTS AND DISOBEDIENCE OF ORDERS.

163. When any such offence as is described in Section 175, 178, 179, 180 or 228, of the Indian Penal Code, is committed in the view or presence of any Civil, Criminal, or Revenue Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding Two Hundred Rupees, or by imprisonment in the Civil Jail for a period not exceeding one month, unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding Two Hundred Rupees should be imposed upon him, such Court, after recording the fact constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace. or, if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace such Justice of the Peace shall enquire into the circumstances and shall have the same powers of punishing the offender as are vested by the Statute 53 George III, c, 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature. In no case tried under this Section shall any Magistrate adjudge imprisonment or a fine exceeding Two Hundred Rupees for any contempt committed in his own presence against his own Court.

Procedure in certain cases of contempt.

164. When any person has been sentenced to punishment, or forwarded to a Magistrate or Justice of the Peace for trial, under the last preceding Section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.

Discharge of an offender on his submission.

165. When any such offence as is described in Chapter X of the Indian Penal Code, except Sections 175, 178, 179 and 180, is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court by a European British subject, such offence shall be cognizable only by a Magistrate who is a Justice of the Peace, and such Magistrate shall have the same powers of punishment for such offence as are vested by the Statute 53 George III. c. 155

Procedure, in all except certain cases, when the offender is a European British subject.

s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender on conviction in the same manner as is provided in that behalf in the said Statute. If such Magistrate shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

CHAPTER XI.

PROSECUTION IN CERTAIN CASES.

Prosecutions for certain offences not to be instituted, but under authority of Government or of an Officer duly empowered.

166. A charge of an offence punishable under Chapter VI of the Indian Penal Code, except Section 127, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council, or the local Government, or some Officer empowered by the Governor-General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

Prosecution against Judges, &c.

167. A charge of an offence punishable under the Indian Penal Code, of which any Judge or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be entertained against such Judge or public servant, except with the sanction or under the direction of the local Government, or of some Officer empowered by the local Government, or of some Court, or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the local Government shall not think fit to limit or reserve.

Prosecution for certain offences under Chapter X of the Penal Code not to be instituted, but with the sanction of the public servants concerned.

168. A charge of a contempt of the lawful authority of any Court or public servant, or of any other offence against a public servant as such, described in Chapter X of the Indian Penal Code, not falling within Section 163 of this Act, shall not be entertained in any Criminal Court, except with the sanction or on the complaint of the Court or public servant concerned, or, if such servant is an inferior ministerial servant, with the sanction or on the complaint of his official superior. The prohibition contained in this Section shall not apply to the offences described in Sections 189 and 190 of the Indian Penal Code.

Prosecution for certain offences against public justice not to be instituted but with sanction of the authority before which the offence was committed.

169. A charge of an offence against public justice, described in Sections 193 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228, of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction of the Civil or Criminal Court before or against which the offence was committed, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Prosecution for certain offences relating to documents, not to be instituted but with the sanction of the Court in which such documents were given in evidence.

170. A charge of an offence relating to documents described in Sections 463, 471, 475, or 476, of the Indian Penal Code, when the document shall have been given in evidence in any proceedings in any Court, Civil or Criminal, shall not be entertained in any Criminal Court against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Mode of proceeding in cases mentioned in the last three preceding Sections.

171. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for investigating any charge mentioned in the last three preceding Sections, the Court, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having power to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law, and the Court shall have power to send the accused person in custody, or to take sufficient bail for his appearance before such Magistrate, and may bind over any person to appear and give evidence on such investigation.

Power of Court of Session in respect of such offences committed before it.

172. It shall be competent to a Court of Session to charge a person for any such offence committed before or under its own cognizance if the offence be triable by the Court of Session exclusively, and to commit or hold to bail and to try such person upon its own charge. In such case the Court of Session shall have the same power of summoning and causing the attendance at the trial of any witnesses for the prosecution or for the defence which is vested in a Magistrate by this Act. Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

Civil Courts empowered to complete investigation and commit accused to the Sessions.

173. In any case triable by the Court of Session exclusively, it shall be lawful for any Court of Civil Judicature before which any such offence was committed, instead of sending the case for investigation to a Magistrate, to complete the investigation itself, and to commit or hold to bail the accused person to take his trial before the Court of Session.

174. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinafter provided, and shall transmit the same with the order of commitment and the record of the case to the Magistrate of the District, or other Officer exercising any of the powers of a Magistrate, and such Magistrate or other Officer as aforesaid shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

Procedure by Civil Court in such cases.

175. Whenever any Court of Session or Civil Court shall commit or hold to bail any person for trial under the last three preceding Sections, such Court may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

Court of Session or Civil Court may exercise all powers of Magistrate as to binding over persons to give evidence,

176. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, such Magistrate shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he may think proper.

Magistrate not empowered to commit, to send the case to Magistrate competent to do so.

177. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

Prosecution for adultery not to be instituted except by the husband.

178. A charge of an offence under Section 498 of the Indian Penal Code, shall not be instituted, except by the husband of the woman or by the person having care of such woman on behalf of her husband.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the woman.

CHAPTER XII.

OF PRELIMINARY ENQUIRY BY THE MAGISTRATE IN CASES TRIABLE BY THE COURT OF SESSION.

179. When a complaint is made before a Magistrate that any person has committed, or is suspected to have committed, any of the offences specified in Column 7 of the Schedule annexed to this Act as triable exclusively by the Court of Session, or which in the opinion of such Magistrate ought to be tried by the Court of Session, it shall be lawful for such Magistrate to issue his warrant to apprehend such person. Provided that in any such case the Magistrate to whom such complaint is made may, if he shall think fit, instead of issuing in the first instance his warrant to apprehend the person so complained against, issue his summons requiring him to appear to answer to such complaint.

Magistrate may issue his warrant.

Or a summons in lieu of warrant.

180. If the Magistrate see cause to distrust the truth of the complaint, he may postpone the issuing of process for causing the attendance of the person complained against, and direct a previous enquiry to be made into the truth of the complaint, either by means of any Officer subordinate to such Magistrate, or of a local Police Officer, or in such other mode as he shall Judge most proper, for the purpose of ascertaining the truth or falsehood of the complaint. If such enquiry is made by means of some person other than an Officer exercising any of the powers of a Magistrate or a Police Officer, such person shall exercise all the powers vested by this Act in an Officer in charge of a Police Station, except, that he shall have no power to make an arrest. Nothing contained in this Section shall prevent the Magistrate from at once dismissing the complaint if in his judgment there be no sufficient ground for proceeding with it.

Postponement of issue of process.

May dismiss the complaint.

181. It shall be in the discretion of the Magistrate in issuing his warrant for the arrest of any person against whom a complaint has been made, to direct by endorsement on the warrant that, if such person be willing and ready to give bail in a sum to be fixed by the Magistrate for his appearance before the Magistrate, to be named in the warrant, on a specified day to answer the complaint, the Officer to whom the warrant is directed shall accept such bail, and shall release the person from custody. In the event of bail being given, the Officer shall forward the bail-bond to the Magistrate.

Magistrate may direct bail to be taken.

182. The Magistrate may, if he see sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf. But it shall be in the discretion of the Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

Magistrate may dispense with the personal attendance of the accused.

183. If any person accused of an offence absconds or conceals himself, so that upon a warrant being issued against him he cannot be found, the Magistrate shall, if satisfied that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring such person to appear to answer the complaint within a fixed period not less than thirty days. The proclamation shall be publicly read in some conspicuous place of the town or

Proclamation for an absconding party.

village in which such person usually resides, and shall be fixed on some conspicuous part of the ordinary place of abode of such person, or on some conspicuous place of such town or village. A copy of the proclamation shall also be fixed on some conspicuous part of the Court-house of the Magistrate.

Attachment of the property of the absconding party.

184. The Magistrate may, at the same time, order the attachment of any moveable or immoveable property belonging to the person absconding or concealing himself. Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed. The attachment under this Section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and in all others cases by seizure under the order of the Magistrate or by the appointment of a manager and receiver, or by an order prohibiting the payment of rent to the absent person, as the Magistrate shall deem proper. If the absent person shall not appear within the time specified in the proclamation, the property under attachment shall be declared to be at the disposal of Government, but shall not be sold until the expiration of six calendar months, unless such property is of a perishable nature, or it shall be considerd by the Magistrate that the sale would be for the benefit of the owner.

Restoration of property declared to be forfeited.

185. When any person whose property shall have been declared to be at the disposal of Government under the last preceding Section shall, within two years after the attachment of the property, surrender himself, and shall upon trial before a competent Court, prove to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of evading Justice, such property, or if the same shall have been sold, the proceeds thereof, shall be restored to him.

Summons to a witness to attend and give evidence.

186. The Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall issue his summons to such persons, requiring them to appear at a time and place mentioned in the summons before such Magistrate to testify what they know concerning the complaint made against the accused person.

187. *Repealed by Act VIII 1869.*

In what cases warrant in the first instance.

188. If the Magistrate shall see reason to believe that such witness will not attend to give evidence without being compelled to do so, it shall be lawful for such Magistrate, instead of issuing a summons, to issue his warrant in the first instance.

If the warrant cannot be served.

189. If warrant cannot be served, and the Magistrate is satisfied that the witness absconds or conceals himself for the purpose of avoiding the service thereof, the Magistrate may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode, and if such witness shall not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness to such amount as he shall deem reasonable, not being in excess of the amount of costs of attachment. and of any fine to which such witness may be liable under the provisions of the following Section. Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of the property in the jurisdiction of any Magistrate by whom such order is endorsed.

If witness on attachment appear and satisfy Magistrate, his property to be released from attachment.

If he do not appear or satisfy Magistrate, property to be sold.

190. If the witness shall appear and satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as he shall deem fit. If such witness shall not appear, or appearing, shall fail to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had no such notice of the proclamation as aforesaid, it shall be lawful for the Magistrate to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Magistrate may impose upon such witness under the provisions of Section 172 of the Indian Penal Code. If the witness shall pay to the Magistrate the costs and fine as aforesaid, the Magisrate shall order the property to released from attachment.

If he do not obey the summons, then warrant.

191. If any person summoned to give evidence, shall neglect or refuse to appear at the time and place appointed by the summons, and no just excuse shall be offered for such neglect or refusal, it shall be lawful for the Magistrate,

upon proof of the summons having been duly served, to issue, a warrant, under his hand and seal, to bring such person before him to testify as aforesaid.

Refusing to answer, may be committed to custody.

192. If any person summoned or brought before a Magistrate, shall refuse to answer such question as shall be put to him, without offering any just excuse for such refusal, the Magistrate may, by warrant, under his hand and seal, commit the person refusing, to custody for any term not exceeding seven days, unless he shall, in the meantime, consent to be examined and to answer, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Examination of complainant and witnesses for the prosecution.

193. The Magistrate shall take the evidence of the complainant, and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

To be in the presence of the accused who may cross-examine.

194. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of this Agent when his personal attendance is dispensed with, and he appears by Agent. The accused or his Agent shall be permitted to cross-examine the complainant and his witnesses.

Mode and language in which the evidence is to be recorded.

195. The evidence of each witness shall be taken down in writing in the language in ordinary use in the District in which the Court is held, by or in the presence and hearing and under the personal direction and superintendence of the Magistrate, and shall be signed by the Magistrate. When the evidence of a witness is given in English, the Magistrate may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the District in which the Court is held, shall form part of the record. In cases in which the evidence is not taken down in writing by the Magistrate, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate with his own hand, and shall be annexed to the record. If the Magistrate shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Government may direct the evidence to be recorded in the vernacular of the Magistrate.

196. It shall be competent to the local Government to direct that in any District or part of a District to which this Act shall extend, or shall hereafter be extended under the provisions of Section 445 of this Act, the evidence of witnesses shall be taken down by the Magistrate with his own hand in the vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. The evidence so taken down shall be signed by the Magistrate, and form part of the record. Provided that, if the vernacular language of the Magistrate be not English or the language in ordinary use in the District in which the Court is held, the Magistrate may be directed by the local Government to take down the evidence in the English language or in the language in ordinary use in the District in which the Court is held, instead of his own vernacular.

Proviso.

Government to decide what is the language in ordinary use in any District.

197. If any question shall arise as to what is the language in ordinary use in any District in which a Court is held, that question shall, for the purposes of this Act, be determined by the local Government.

Evidence how to be recorded.

198. The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative. It shall be in the discretion of the Magistrate to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any person who is a prosecutor, or a person accused, or his Counsel or Agent, shall require it. When the evidence is completed, it shall be read over to the witnesses in the presence of the accused person if in attendance, or of his Agent when his personal attendance is dispensed with and he appears by Agent, and shall, if necessary, be corrected. If the witness shall deny the correctness of any part of the evidence when the same is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he may think necessary. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

Memorandum to be attached to the evidence.

199. A memorandum to be signed by the Magistrate shall be attached to the evidence of each witness, and shall state that the evidence was read over to the witness in a language which he understood (naming the language), and if the fact is so, that the witness acknowledged such evidence to be correct. When the evi-

dence is not taken down by the Magistrate with his own hand, the memorandum shall further state that the evidence was taken down in the presence and hearing of the Magistrate, and under his personal direction and superintendence.

In what cases evidence to be interpreted to the accused or his Agent.

200. If the evidence is given in a language not understood by the accused person, it shall be interpreted to him in open Court, in a language understood by him, in all cases where the accused is present in person. If the accused person appears by Agent, and the evidence is given in a language other than the language in ordinary use in the District in which the Court is held, it shall be interpreted to such Agent in that language.

Power of Magistrate at any stage to summon and examine.

201. It shall be in the discretion of the Magistrate at any stage of the proceedings to summon and examine any person, whose evidence he may consider essential to the enquiry.

Examination of defendant.

202. It shall be in the discretion of the Magistrate, from time to time, at any stage of the enquiry, to examine the accused person, and to put such questions to him as he may consider necessary. It shall be in the option of the accused person to answer such questions.

No influence to be used to induce disclosures.

203. No influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge; but if the accused person shall, of his own accord, propose to confess the commission by him of the offence of which he is accused, the Magistrate shall require him to give an account of the facts and circumstances in detail, and shall examine him thereupon in the same manner as if he were a witness.

Magistrate how to proceed in case of confession.

Accused persons not to be sworn.

204. No oath or affirmation shall be administered to the accused person.

Examination of the accused how to be recorded.

205. The examination of the accused person, including every question put to him and every answer give by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers; and when the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Any person in attendance may be detained for any offence committed by him.

206. Any person attending the Court of the Magistrate, although not upon an arrest or summons on a charge made, may be detained by the Magistrate for the purpose of examination, for any offence which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned on a charge made.

Discretion to the Magistrate to take evidence for the defence.

207. It shall be at the discretion of the Magistrate to summon any witness who may be offered in behalf of the accused person to answer or disprove the evidence against him.

Witnesses for the defence.

208. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act, shall be applicable to witnesses named in support of the defence.

Magistrate may tender a pardon in certain cases.

209. It shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, recording his reason for so doing, to tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in Column 7 of the Schedule annexed to this Act as triable by the Court of Session, on condition of his or their making a full, true, and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof. If any person shall accept a tender of pardon under this Section, he shall be examined as a witness in the case under the rules applicable to the examination of witnesses. Such person, if not on bail, may, if the Magistrate or other Officer as aforesaid shall think proper, be detained in custody pending the termination of the trial.

When Sudder Court or Court of Session may direct a tender of pardon.

210. It shall be competent to a Court of Session at the time of trial, and also to the Sudder Court as a Court of reference in cases tried with the aid of Assessors, to instruct the Magistrate in like manner to tender a pardon to one or more persons supposed to have been directly or indirectly concerned in or privy to any such offence, with the view of obtaining his or their evidence on the trial.

When Sudder Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered.

211. If it shall appear to a Court of Session at the time of trial, or to the Sudder Court as a Court of reference, that any person who shall have accepted an offer of pardon, has not conformed to the conditions under which the pardon was tendered, either by lawfully concealing any thing essential, or by giving false evidence or information, it shall be competent to such Court to direct the commitment of such person for trial for the offence in respect of which the pardon was tendered.

Bail not to be taken for certain offences.

212. When any person shall appear or be brought before a Magistrate accused of any offence entered as not bailable in Column 5 of the Schedule

annexed to this Act, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the crime imputed to him; but if the evidence given in support of the accusation shall, in the opinion of the Magistrate, not be such as to raise a strong presumption of the guilt of the accused person and to require his committal, or such evidence shall be adduced on behalf of the accused person as shall, in the opinion of the Magistrate, weaken the presumption of his guilt, but there shall appear to the Magistrate in either of such cases to be sufficient ground for further enquiry into his guilt, the accused person shall be admitted to bail pending such enquiry.

When may be taken.

213. When any person shall appear or be brought before a Magistrate accused of any of the offences specified in Column 5 of the Schedule annexed to this Act, as bailable, he shall be admitted to bail.

When bail shall be taken.

214. When a Magistrate shall admit to bail any person accused or suspected of any offence, a recognizance in such sum of money as the Magistrate may think sufficient, shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend during the preliminary enquiry, and if required, shall appear when called upon at the Court of Session to answer the charge.

Recognizance of accused and his sureties.

215. If through mistake or fraud insufficient bail has been taken, or, if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to find sufficient sureties, and in default, may be committed to prison.

Insufficient bail.

216. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction,

Bail may be taken at any time before conviction.

217. After the recognizance shall have been duly entered into, the Magistrate, in cases the accused person shall have appeared voluntarily, or shall be in the custody of some Officer, shall thereupon discharge him; and in case he shall be in some prison or other place of confinement, shall issue a warrant of discharge to the jailor or other person having him in his custody, and such jailor or other person shall thereupon liberate him.

Discharge on bail.

218. The sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements. On such an application being made, the Magistrate shall issue his warrant, directing that such person be brought before him. On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and in default, may order him to be committed to prison.

Discharge of sureties.

219. Whenever by reason of default of appearance of the person executing the personal recognizance, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the District.

Proceedings to compel payment of penalty by the accused.

220. Whenever by reason of default of appearance by the person bailed, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid; and, if no sufficient cause be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any moveable property belonging to such surety or sureties which may be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the Civil jail, during a period not exceeding six months.

Proceedings to compel payment of penalty by the sureties.

221. The powers given by the last two preceding Sections may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail.

In what cases the powers given by the last two Sections may be exercised.

222. Every warrant for the commitment of a person to custody shall be directed to some jailor, or other Officer or person having authority to receive and keep prisoners, and shall be in the form (C) given in the Appendix, or to the like effect.

The warrant of commitment how to be directed, &c.

223. The warrant of commitment shall be lodged with the jailor, if he be in jail; and if he be not in the jail, with his deputy. If the jailor has no deputy, the warrant may be lodged with any officer of the jail then being in the jail.

With whom to be lodged.

224. If from the absence of a witness or from any other reasonable cause, it shall become necessary or advisable to defer the examination, or further examination, of witnesses, it shall be lawful for the Magistrate by a written order, from

Magistrate may adjourn the enquiry, when.

time to time, to adjourn the enquiry, and to remand the accused person for such time as shall be deemed reasonable, not exceeding fifteen days ; provided that, instead of detaining the accused person in custody during the period for which he shall be so remanded, the Magistrate may discharge him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before the Magistrate at the time and place appointed for the continuance of such examination.

Accused, when to be discharged.

225. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the Court of Session or for remanding him, he shall discharge him, unless it shall appear to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed under Chapter XIV of this Act.

When defendant to be committed for trial.

226. When evidence has been given before a Magistrate which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent for trial by the Magistrate before the Court of Session. If the Magistrate is a Justice of the Peace and the accused person is a European British Subject, he shall be sent for trial before the Supreme Court of Judicature.

Copy of charge to be furnished to accused person.

Witnesses for the defence on the trial.

227. As soon as the charge on which the accused person is to be tried, has been prepared as hereinafter directed, it shall be read to him, and a copy or translation of it shall be furnished to him, if he require it. The accused person shall be required at once to give in orally or in writing, a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court of Session or Supreme Court. It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time. The Magistrate shall receive the list, and summon the witnesses to appear before the Court before which the accused person is to be tried. The provisions of Sections 187, 188, 189, 190, 191, and 192, so far as they relate to the attendance of witnesses, shall be applicable to witnesses named by the accused person in the list above mentioned.

Magistrate may refuse to summon any unnecessary witness, unless deposit be made to defray his expenses.

228. If the Magistrate shall be of opinion that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material, and if the Magistrate be not so satisfied, he shall not be bound to summon the witness, unless such a sum shall be deposited with the Magistrate as he shall consider necessary to defray the expense of obtaining the attendance of the witness.

The record to be forwarded to the Superior Court.

229. When a commitment is made to the Court of Session, the record of the Magistrate shall be forwarded to such Court, together with any weapon or other article of property connected with the case. When a commitment is made to the Supreme Court of Judicature, such record and such weapon or other article shall be forwarded to the Clerk of the Crown, and if any part of such record shall not be in the English language, a translation thereof in the English language shall be forwarded therewith.

Copies of depositions to be given to accused.

230. When the preliminary enquiry is concluded, the accused person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions, which shall be made at his expense.

When commitment is made, the Magistrate to give notice to the Government Pleader, &c.

231. When the accused person is committed to take his trial before the Court of Session, the Magistarte shall issue an order to the Government Pleader or other Officer appointed by the Government to conduct prosecutions before the Court of Session, notifying such commitment, and stating the offence in the same form as the charge. Nothing in this Section shall preclude the Magistrate, if he shall think fit, from appointing a person other than such Government Pleader or Officer to conduct the prosecution.

Recognizances of prosecutors and witnesses.

232. Prosecutors and witnesses for the prosecution, whose attendance may be necessary before the Court of Session, shall execute before the Magistrate recognizances in the Form (E) given in the appendix, or to the like effect; to be in attendance when called upon at the Court of Session, to prosecute or to give evidence as the case may be. If any prosecutor or witness shall refuse to attend before the Court of Session or to execute the recognizance above directed, it shall be competent to the Magistrate to detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the time when his attendance at the Court of Session is required, when the Magistrate shall forward such prosecutor or witness under custody to the Court of Session.

CHAPTER XIII.

OF THE CHARGE.

What the charge is to contain.

233. When the Magistrate has determined to send the accused person before the Court of Session for trial, he shall make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct the accused person to be tried by such Court on such charge. A copy of this instrument shall be forwarded with the record of preliminary enquiry to the Court of Session before which the accused person is to be tried, and a copy shall also be sent to the Public Prosecutor or to the Officer appointed to conduct the prosecution.

How the offence is to be described.

234. The charge shall describe the impute offence as nearly as possible in the language of the Indian Penal Code, and shall refer to the Section under which such offence is punishable.

Absence of General Exceptions under the Penal Code to be assumed.

235. It shall not be necessary to allege in the charge any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come, within any of the General Exceptions contained in Chapter IV of the Indian Penal Code, but every charge shall be understood to assume the absence of all such circumstances.

Evidence as to General Exception.

236. It shall not be necessary at the trial, on the part of the prosecutor, to prove the absence of such circumstances in the first instance; but the accused person shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

Special ground of exception from absence of circumstances not to be assumed.

237. When the Section referred to in the charge contains an exception not being one of such General Exceptions, the charge shall not be understood to assume the absence of circumstances constituting such exception so contained in the Section, without a distinct denial of the existence of such circumstances.

Charge may contain one or more heads.

238. The charge may contain one or more heads.

Heads of charge.

239. When a charge contains one head only, the form shall be as follows, or to the same effect :

(a.) I, A [*name and Office of Magistrate &c.*,] declare that there is hereby made against Z the charge—

(b.) That he, on or about the day of at , waged war against the Queen, and that he has thereby committed an offence punishable under Section 121 of the Indian Penal Code, (c) and within the cognizance of the Court of Session.

(d.) And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

To be substituted for *(b)*.

(2.) That he, on or about the day of at , with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3.) That he, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for his, the said Z's, forbearing to do an official act, and that he has thereby committed an offence punishable under Section 161 of the Indian Penal Code, and within the cognizance of the Court of Session.

(4.) That he, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(5.) That he, on or about the day of at , abetted the commission of suicide by A. B., a person in a state of intoxication, and that he has thereby committed an offence punishable under Section 306 of the Indian Penal Code, and within the cognizance of the Court of Session.

(6.) That he, on or about the day of at , voluntarily caused grievous hurt to and that he has thereby committed an offence punishable under Section 325 of the Indian Penal Code, and within the cognizance of the Court of Session.

(7.) That he, on or about the day of at , committed robbery, and that he has thereby committed an offence punishable under Section 392 of the Indian Penal Code, and within the cognizance of the Court of Session.

(8.) That he, on or about the day of at , committed dacoity, and that he has thereby committed an offence punishable under Section 395 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with one head only, under other Sections of the Indian Penal Code.

Charges in cases falling within two or more Sections of the Penal Code.

240. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within two or more Sections of the Indian Penal Code, the charge shall contain two or more heads, each of which shall be applicable to one of such Sections.

Two or more offences punishable under the same Section.

241. When it appears to the Magistrate that the facts which can be established in evidence show the commission of two or more offences falling within the same Section of the Indian Penal Code, the charge shall contain two or more heads charging such offences respectively.

Cases of doubt as to the Section which is applicable, or the offence which may be proved.

242. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within some one of two or more Sections of the Indian Penal Code, but it is doubtful which of such Sections will be applicable, or show the commission of one of two or more offences falling within the same Section of the said Code, but it is doubtful which of such offences will be proved, the charge shall contain two or more heads, framed respectively under each of such Sections, or charging respectively each of such offences accordingly.

Forms of charge of more than one head.

243. When a charge contains more heads than one, the form shall be as follows, or to the same effect :—

I. A [*name and office of Magistrate or other Officer as aforesaid, &c.*,] declare that there is hereby made against Z the charge :

First :—That he, on or about the day of at , knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and that he has thereby committed an offence punishable under Section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly :—That he, on or about the day of at , knowing a coin to be counterfeit, attempted to induce another person by name A. B. to receive it as genuine, and that he has thereby committed an offence punishable under Section 242 of the Indian Penal Code, and within the cognizance of the Court of Session.

And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*)

First :—That he, on or about the day of at , committed murder by causing the death of , and that he has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Sessions.

Secondly :—That he, on or about the day of at , by causing the death of , committed culpable homicide, and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

First:—That he, on or about the day of at , committed theft, and that he has thereby committed an offence punishable under Section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly :—That he, on or about the day of at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly :—That he, on or about the day of at , committed theft, having made preparation for causing restraint to a person in order to the effecting of his escape after the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly :—That he, on or about the day of at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with more heads than one, under other Sections of the Indian Penal Code.

Amendment of charge.

244. It shall be competent to any Court before which a trial is held, at any stage of the trial, to amend or alter the charge.

When the trial may be proceeded with forthwith after amendment.

245. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making the amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

246. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and after hearing his defence, may further adjourn the trial, to admit of the appearance of any witness, whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

When a new trial may be ordered, or trial suspended.

247. In all cases of amendment or alteration of a charge, the accused person shall be allowed to recall and examine any witness who may have been examined.

Defendant may recall and examine witness already examined.

CHAPTER XIV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A WARRANT ON COMPLAINT MAY ISSUE.

248. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected to have committed, any offence triable by such Magistrate, and punishable under the Indian Penal Code with imprisonment for a period exceeding six months, it shall be lawful for such Magistrate to issue his warrant to apprehend such person. Provided that in any such case the Magistrate, to whom such complaint shall be made, may for any sufficient reason, instead of issuing his warrant in the first instance, issue his summons, requiring the person complained against to appear to answer to such complaint.

Cases in wich Magistrate may issue a warrant.

Summons in lieu of warrant.

294. The provisions of Chapter XII relating to the issuing of process for causing the attendance of the accused person, the taking of bail, the summoning and enforcing the attendance of witnesses, the examination of parties and witnesses, the mode of recording evidence, correction, attestation, and interpretation thereof, and the adjournment of a case, shall be applicable to cases tried under this Chapter. On completing the examination of a witness under this Section, the Magistrate, in addition to the memorandum required by Chapter XII, shall record such remarks as he may think material respecting the demeanor of any witness while under examination.

Issue of process &c.

250. When the evidence of the complainant and of the witnesses for the prosecution, and such examination of the accused person as the Magistrate shall consider necessary, have been taken, the Magistrate, if he find that no offence has been proved against the accused person, shall discharge him. If the Magistrate find that an offence is apparently proved against the accused person which falls within the definition in a certain Section of the Indian Penal Code, or within one or other of the definitions in several Sections of the said Code, he shall prepare in writing a charge against the accused person in the manner prescribed in Chapter XIII of this Act, all the provisions of which shall be applicable to charges prepared under this Section. In charges prepared under this Section the words "within my cognizance" shall be substituted for the words "within the cognizance of the Court of Session" at the end of the charge, and the words "by the said Court" omitted in the order.

Charge.

251. The charge shall then be read to the accused person, and he shall be asked whether he is guilty or has any defence to make.

Plea.

252. If the accused person have any defence to make to the charge, he shall be called upon to enter upon the same, and to produce his witnesses if in attendance, and shall be allowed to recall and cross-examine the witnesses for the prosecution.

Plea of claim to be tried.

253. The Magistrate shall summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence against him, and may, for this purpose, at his discretion, adjourn the trial from time to time, as may be necessary.

Evidence for the defence.

254. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act shall be applicable to witnesses named in support of the defence.

Witnesses for the defence.

255. If the Magistrate shall find the accused person not guilty, he shall record judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

Acquittal or conviction.

956. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or which, in the opinion of such Magistrate ought to be tried by the Court of Session, the Magistrate shall stop further proceedings under this Chapter, and shall proceed in accordance with Chapter XII of this Act for conducting the preliminary enquiry in cases triable by the Court of Session.

Magistrate how to proceed if, after trial commenced, he finds the case beyond his jurisdiction.

CHAPTER XV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A SUMMONS ON COMPLAINT SHALL ORDINARILY ISSUE.

Summons shall issue.

257. Whenever a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed or is suspected to have committed any offence triable by such Magistrate, and punishable under the Indian Penal Code with imprisonment for a period not exceeding six months, it shall be lawful for such Magistrate to issue his summons directed to such person, stating shortly the matter of such complaint, and requiring him to appear at a certain time and place before such Magistrate to answer to the complaint. Provided that, if the Magistrate shall be satisfied or have reason to believe that the accused person is about to abscond, he may, instead of issuing a summons, issue his warrant in the first instance for the arrest of such accused person.

When warrant may issue.

Defendant may be admitted to bail or to be at large upon personal recognizance.

258. If upon the day appointed, the accused person shall appear voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the Magistrate by virtue of a warrant, it shall be at the discretion of the Magistrate to admit the accused person to bail, or allow him to be at large upon his personal recognizance, as the Magistrate may direct. If the accused person cannot give bail when required to do so, he shall be committed to custody.

Non-appearance of complainant.

259. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint; unless for some reason he shall think proper th adjourn the hearing of the same to some other day, upon such terms as he shall think fit.

If summons be not obeyed, then warrant.

260. If the person served with a summons shall not appear before the Magistrate at the time mentioned in such summons, and the Magistrate shall be satisfied that such summons was duly served in what shall be deemed by the Magistrate to be a reasonable time before the time therein appointed for appearing to the same, or if it shall appear to the Magistrate that after due diligence the summons could not be served according to the provisions of this Act, the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

261. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person complained against, and permit him to appear by an Agent duly authorized to act in his behalf. Provided that it shall be at the discretion of the Magistrate at any stage of the proceedings to direct the personal attendance of such person. When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of the Agent, if the accused person has been permitted to appear by Agent, or the accused person may be required to attend to hear such sentence.

Summons to witness to attend and give evidence.

262. If it appear to the Magistrate that any person is likely to give material evidence on behalf of the complainant or the accused person, and that such person will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such complaint, the Magistrate shall issue his summons to such person under his signature and seal, requiring him to appear at a time and place mentioned in the summons, to testify what he knows concerning the matter of the complaint.

Magistrate may summon necessary evidence.

163. It shall be at the discretion of the Magistrate, at any stage of the trial, to summon and examine any witness whose evidence he may consider essential to the just decision of the case. The Magistrate may also examine as a witness any person in attendance, although not summoned as a witness.

Application of previous rules.

264. The provisions of Sections 187, 188, 190, 191, and 192, shall be applicable to witnesses summoned according to the provisions of Sections 262 and 263 of of this Act.

Admission by accused of truth of complaint.

265. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should nol be convicted. If the accused person admit the truth of complaint, and show no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Proceeding when no such admission is made.

166. If the accused person do not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he may produce in support of his complaint, and also to hear the accused person and such witnesses as he shall produce in his defence.

Evidence how to be recorded.

267. The Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds. The memorandum shall be written and signed by the Magistrate with his own hand, and shall

form part of the record. If the Magistrate shall be prevented from making a memorandum as above required he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same and such memorandum shall form part of the record. The Magistrate shall record such remarks as he shall think material respecting the demeanor of any witness whilst under examination.

Manner of recording evidence in certain cases.

268. In any case in which the Magistrate shall consider it necessary, it shall be competent to him, instead of taking down merely the substance of the evidence of any witness, to take down the evidence of the witness in the manner provided in Section 195 or in the manner provided by Section 196 of this Act if within the jurisdiction of such Magistrate the local Government shall have made an order as provided in that Section. In any such case the provisions of Sections 199 and 200 shall be applicable to the evidence so taken.

Adjournment.

269. Before or during the hearing of any complaint, it shall be lawful for the Magistrate to adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties; and if on the day to which such hearing or such further hearing shall have been so adjourned, the accused person shall not appear, the Magistrate may issue his warrant for the arrest of such person, and if the complainant shall not appear, the Magistrate may dismiss the complaint.

Magistrate may award amends in cases of frivolous and vexatious complaints.

270. In any case where the Magistrate shall dismiss the complaint as frivolous and vexatious, it shall be lawful for him, in his discretion, by his order of dismissal, to award that the complainant shall pay to the accused person such amends, not exceeding Fifty Rupees, as to such Magistrate shall seem just and reasonable The sum so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District, and in default of such distress, by imprisonment in the Civil jail, for any time not exceeding thirty days, unless such amends shall be sooner paid.

Magistrate may permit withdrawal of the complaint.

271. If a complainant at any time before a final order is passed in any case under this Chapter, shall satisfy the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the magistrate may permit such complainant to withdraw such complaint. A complaint withdrawn under this Section shall not again be entertained.

Acquittal or conviction.

272. If the Magistrate, in any case tried under this Chapter, shall find the accused person not guilty, he shall record a Judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

CHAPTER XVI.

OF ENQUIRIES AND TRIALS BEFORE THE SUBORDINATE MAGISTRATES.

Reference of cases to subordinate Magistrate.

273. Criminal cases brought before the Magistrate of the District or a Magistrate in charge of a division of a District, either on complaint preferred directly to such Magistrate or on the report of a Police Officer, may be referred by such Magistrate to any Magistrate subordinate to him. The reference shall be for enquiry, or for trial if the offence be triable by such Subordinate Magistrate, or with a view to commitment to the Court of Session if such Magistrate is competent to commit to the Court of Session, or with a view to commitment to the Supreme Court of Judicature if such Subordinate Magistrate is competent to commit to such Supreme Court. Provided that nothing in this Section shall prevent any Subordinate Magistrate from entertaining, either on complaint preferred directly to such Magistrate or on the report of a Police Officer (in cases in which the Subordinate Magistrate is authorized to receive such report), any case that such Magistrate is, by any law for the time being in force, competent to entertain.

Proviso.

Cases how to be referred.

274. When a criminal case is referred under this Chapter to a Subordinate Magistrate, the order of reference, if the case has been brought forward on the report of a Police Officer, shall be recorded on such report, and all processes issued for causing the attendance of the accused person or the witnesses, shall direct them to attend before such Court.

Subordinate Magistrates to follow the same rules of procedure as the Magistrate.

275. In the enquiry into or trial of cases under this Chapter, the Subordinate Magistrate shall be guided by the rules prescribed for the guidance of the Magistrate of the District in similar cases; and Police officers and others shall be bound to obey all orders and processes issued in such cases in like manner as if such orders or processes had been issued by the Magistrate of the District.

Subordinate Magistrate how to proceed

276. If, in the course of a trial before a Subordinate Magistrate, the evidence shall appear to him to warrant a presumption that the accused person has been

in cases beyond his jurisdiction.

guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial before the Court of Session, he shall stay proceedings and shall submit the case to the Magistrate to whom he is subordinate. The Magistrate to whom the case is submitted shall either try the case himself or refer it to any Officer subordinate to him having Jurisdiction, or he may commit the accused person for trial before the Court of Session. In any such case, such Magistrate or other Officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

In what cases Subordinate Magistrate shall not not pass sentence, but may refer case to the Magistrate.

Magistrate how to proceed in such cases.

277. If in any case tried by a Subordinate Magistrate having jurisdiction in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than he is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate to whom he is subordinate, and such Magistrate shall pass such sentence or order in the case as he may deem proper and as shall be according to law. In any case the Magistrate to whom the proceedings are submitted, may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Subordinate Magistrate, if empowered to do so, may in, lieu of convicting the accused, commit him for trial before the Court of Session.

Procedure in such cases.

278. Nothing in the last preceding Section shall be held to prevent the Subordinate Magistrate in any such case as is therein described, if such Magistrate is empowered to hold the preliminary inquiry into cases triable by the Court of Session and to commit persons to take their trial before such Court, from committing the accused person for trial before the Court of Session instead of finding him guilty. If the Subordinate Magistrate shall be of opinion that the accused person should be committed for trial before the Court of Session, he shall proceed in accordance with Chapter XII of this Act for conducting the preliminary enquiry in cases triable by the Court of Session.

CHAPTER XVII.

PLACE WHERE PRELIMINARY INVESTIGATIONS AND TRIALS HELD, AN OPEN COURT.

Place where investigation is made, an open Court.

279. The place in which the Court of a Magistrate is held for the trial of any complaint or for the purpose of conducting any preliminary investigation into any case triable by a Court of Session or Supreme Court of Judicature, or any Superior Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them; but it shall be lawful for any such Court, if it shall think fit, to order that during the investigation into any particular case triable by a Court of Session or by a Supreme Court of Judicature, no person shall have access to or be or remain in such room or building without the consent or permission of the Court.

CHAPTER XVIII.

OF RECOGNIZANCE AND SECURITY TO KEEP THE PEACE.

Personal recognizance to keep the peace in cases of conviction.

280. Whenever a person charged with rioting, assault, or breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, shall be convicted of such charge before any Court of Session or the Magistrate of the District or other Officer exercising the powers of a Magistrate, and the Court or Magistrate or other Officer as aforesaid by which the accused person is convicted, or the Court or Magistrate or other Officer as aforesaid by which the final sentence or order in the case shall be passed, shall be of opinion that it is just and necessary to require a penal recognizance for keeping the peace from the person so convicted, it shall be lawful to such Court or Magistrate or other Officer as aforesaid so convicting the accused person, or so passing the final sentence or order as aforesaid, in addition, to direct that the person so convicted be required to execute a formal engagement in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by the Magistrate of the District or other Officer exercising the powers of the Magistrate, or three years if the sentence or final order be passed by a Court of Session. When any accused person shall be convicted of any offence specified in this Section by an Officer not exercising the powers of a Magistrate, such Officer, if he consider it just and necessary to require a penal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, or other

Officer exercising the powers of a Magistrate to whom such Officer may be subordinate, who shall deal with the case as if the conviction had been before himself.

Security to keep the Peace.

281. In cases in which it may appear necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, it shall also be lawful to the Court or Magistrate or other Officers as aforesaid empowered to require a penal recognizance under the last preceding Section, to require security in addition thereto and to fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in custody for any time not exceeding one year if the order be passed by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or three years if the order be passed by the Sudder Court or by a Court of Session.

Summons to any person to shew cause why he should not enter into a bond to keep the peace.

282. It shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, whenever he shall receive credible information that any person, whether a European British subject or not, is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, to summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace with or without sureties as such Magistrate shall think fit.

Form of the summons.

283. The summons shall set forth the substance of the information, the amount of the bond, and the term for which it is to be in force, and if security is called for, the number of sureties required, and the amount in which they are to be bound respectively. Such summons shall be served in the manner provided by this Act for the service of a summons on an accused person.

Penalty.

284. The penalty of such bond, which shall be in the form (D) given in the Appendix, or to the like effect, shall be fixed with a due regard to the circumstances of the case and the means of the party, and the amount in which the sureties shall be bound shall not exceed the said penalty.

Warrant of arrest.

285. If the person summoned shall not attend on the day appointed, the Magistrate or other Officer as aforesaid, if satisfied that the summons has been duly served, may issue a warrant for his arrest. Provided that, whenever it shall appear to the Magistrate or other Officer as aforesaid, upon the report of a Police Officer or upon other credible information, the substance of which report or information shall be recorded, that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, it shall be lawful for the Magistrate at any time to issue a warrant for the arrest of such person.

Magistrate may dispense with the personal attendance of the party informed against.

286. The Magistrate or other Officer as aforesaid may, if he see sufficient cause, dispense with the personal attendance of the person informed against and permit him to appear and enter into the required security, or show cause against such requisition, by an Agent duly authorized to act in his behalf.

Discharge of party informed against.

287. If on the appearance of the person, or of his Agent if he is permitted to appear by Agent, the Magistrate or other Officer as aforesaid shall not be satisfied that there is occasion to bind such person to keep the peace, he shall direct his discharge.

Consequence of not complying with order of Magistrate to enter into a bond.

288. If the Magistrate or other Officer as aforesaid shall be satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if the person shall fail to comply with the order, it shall be lawful for the Magistrate or other Officer as aforesaid to commit him to jail.

Limit for confinement.

289. The period for which the Magistrate or other Officer as aforesaid may bind a person to keep the peace with or without security, shall not exceed one year. When a person shall be committed to jail under the last preceding Section, he shall not be detained by authority of the Magistrate or other Officer as aforesaid beyond the term of one year, and shall be released whenever he shall comply with the order within that term.

Extension of period of confinement.

290. Whenever it shall appear to the Magistrate or other Officer as aforesaid that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the Court of Session, and such Court, after examining the proceedings of the Magistrate or other Officer as aforesaid, and making such further enquiry as such Court may think necessary, may, if it shall see cause, authorize the Magistrate or other Officer as aforesaid to extend the term for a further period not exceeding one year, and if the party shall fail to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate or other Officer as aforesaid shall direct under the orders of the Court of Session, he may

be kept in confinement for such further period or until he shall give such bond within that period.

Discharge of the recognizances.

291. The Magistrate or other Officer as aforesaid may, if he shall see sufficient cause, discharge any recognizance and surety for keeping the peace taken under preceding Sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

292. A surety for the personal appearance of another person may at any time apply to the Magistrate or other Officer as aforesaid, to be relieved from his engagement as security. On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound, may appear or be brought before him. On the appearance of the person to such warrant or on his voluntary surrender, the Magistrate or other Officer as aforesaid, shall direct the engagement of the security to be cancelled, and shall call upon such person to give fresh security, and in default thereof shall commit him to custody.

Enforcement of penalty against the principal party.

293. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any recognizance or other bond taken under this Chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by the bond to pay the penalty thereof or to show cause why it should not be paid; and if sufficient cause be not shown and the penalty be not paid, the Magistrate or other Officer as aforesaid shall proceed to recover the same by the attachment and sale of any of the moveable property belonging to the person bound thereby which shall be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, the party shall be liable to imprisonment by order of the Magistrate or other Officer as aforesaid in the Civil Jail for a period not exceeding six months.

Recovery of the Penalty from a surety.

294. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any bond with a surety has been forfeited, the Magistrate or other Officer as aforesaid may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable or to show cause why it should not be paid; and if no sufficient cause be shown, and the penalty be not paid, the Magistrate or other Officer as aforesaid may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

CHAPTER XIX.

SECURITY FOR GOOD BEHAVIOUR.

When Magistrate may require security for good behaviour for six months.

295. Whenever it shall appear to the Magistrate of the District or to an Officer exercising the powers of a Magistrate that any person is lurking within his jurisdiction not having any ostensible means of subsistence, or who cannot give a satisfactory account of himself, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding six months.

When Magistrate may require security for good behaviour for one year.

296. Whenever it shall appear to such Magistrate or other Officer as aforesaid from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker, or thief, or a receiver of stolen property knowing the same to have been stolen, or of notoriously bad livelihood, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding one year.

How to proceed in cases beyond one year.

297. Whenever it shall appear to such Magistrate or other Officer as aforesaid from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief, or a receiver of stolen property knowknowing the same to have been stolen, or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year hazardous to the community, the Magistrate or other Officer as aforesaid shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour,

Case to be laid before the Court of Session.

298. If the person required to furnish security, as provided in the last preceding Section, shall not furnish the security so required, the proceedings shall be laid, as soon as conveniently may be, before the Court of Session, which, after examining them and requiring any further information or evidence which it may judge necessary, shall be competent to pass orders on the case, either confirming, modifying, or annulling the orders of the Magistrate or other Officer as aforesaid as it may judge proper.

Court of Session may require security

299. If the Court of Session shall not think it safe to direct the immediate discharge of such person, it shall fix a limited period for his detention, not exceeding three years, in the event of his not giving the security required from him.

300. In every instance in which security for good behaviour shall be required by the Court of Session or the Magistrate or other Officer as aforesaid the amount of the security, the number of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order. The security-bond shall be in the form (F) given in the Appendix, or to the like effect.

What the order for security is to contain.

301. In the event of any person required to give security under the provisions of the foregoing Sections, failing to furnish the security so required, he shall be committed to prison until he furnish the same. Provided that no party shall be kept in prison for a longer period than that for which the security has been required from him.

In default of security, party to be committed to jail.
Proviso.

302. The Magistrate of the District or other Officer exercising the powers of a Magistrate is empowered, at any time, to exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order or by the order of any Officer subordinate to him, provided he shall be of opinion that such person can be released without hazard to the community.

When Magistrate may release persons confined under requisition of security.

308. In any case in which a Magistrate or other Officer as aforesaid shall be of opinion that any person confined under requisition of security for good behaviour by order of a Court of Session, can be safely released without such security, the Magistrate or other Officer as aforesaid shall make an immediate report of the case for the orders of the Court which shall have required the person to furnish the security.

When he must report.

304. A surety for the good behaviour of a person may at any time apply to the Magistrate or other Officer as aforesaid to be relieved from his engagement as surety. On such application being made, the Magistrate or other Officer as aforesaid shall issue his summons or warrant in order that the person may appear or be brought before him. On the appearance of the party pursuant to the warrant or on his voluntary surrender, the Magistrate or other Officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon the person to give fresh security, and in default thereof shall commit him to custody.

Discharge of surety.

305. Whenever the Magistrate or other Officer as aforesaid shall be of opinion that by reason of an offence proved to have been committed by the person for whose good behaviour security has been given subsequent to his having given such security, proceeding should be had upon the bond executed by the surety, he shall give notice to the surety to pay the penalty, or to show cause why it should not be paid ; and if no sufficient cause be shown, the Magistrate or other Officer as aforesaid shall proceed to recover the penalty from such surety by the attachment and sale of any moveable property belonging to such surety which may be found with in the Jurisdiction of the Magistrate of the District; and if the penalty be not paid, and cannot be recovered by such attachment and sale, such surety shall be liable to imprisonment by order of the Magistrate or other Officer as aforesaid in the Civil Jail, for a period not exceeding six months.

Proceeding to compel payment of penalty by sureties.

306. The several provisions of the last preceding Chapter relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, shall apply to proceedings taken under this Chapter against persons required to give security for their good behaviour.

Issue of summons and warrant of arrest.

307. Any evidence taken under Chapter XVIII or this Chapter, shall be taken in the manner prescribed by Section 267, subject to the provision contained in Section 268 of this Act.

Mode of taking evidence under Chapter XVIII or this Chapter.

CHAPTER XX.

OF LOCAL NUISANCES.

308. Whenever the Magistrate of a District or of a division of a District may consider that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place, or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place, or that the construction of any building or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented, or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary, or that any tank or well adjacent to any public thoroughfare should be fenced in such manner as to prevent danger arising to the public, he may issue an order to the person causing such obstruction or nuisance or carrying on such trade or occupation, or being the owner, or in possession of, or

Magistrate may order removal of nuisance.

having control over, such building, substance, tank, or well as aforesaid, calling on such person, within a time to be fixed in the order, to remove such obstruction or nuisance or to suppress or remove such trade or occupation, or to stop the construction of, or to remove such building, or to alter the disposal of such substance, or to fence such tank or well, (as the case may be) or to appear before such Magistrate within the time mentioned in the order, and show cause why such order should not be enforced.

Service or notification of order.

309. Such order shall, if practicable, be served personally on the person to whom it is issued; but if personal service is found to be impracticable, the order shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person.

Person ordered shall obey the order, or may claim a Jury.

Constitution of Jury.

Proceeding in case of neglect by Jury.

310. The person to whom such order is issued shall be bound, within the time specified in the order, to obey the same or to appear before the Magistrate to show cause as aforesaid, or he may apply to the Magistrate by petition for an order for a Jury to be appointed to try whether the order is reasonable and proper. On receiving such petition, the Magistrate shall forthwith appoint a Jury which shall consist of not less than five persons, whereof the President and one half of the Members shall be nominated by such Magistrate, and the remaining Members by the party petitioning. The Magistrate shall suspend the execution of the order pending such enquiry, and be guided by the decision of the Jury, which shall be according to the opinion of the majority. If the petitioner shall, by neglect or in any other way, prevent the appointment of a Jury, or if from any cause the Jury so appointed shall not decide and report within a reasonable time to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate, and if from any of the above causes no decision be made by the Jury, the order of the Magistrate shall be carried into effect as hereinafter provided.

Procedure in case of disobedience or neglect by party ordered.

311. If the person to whom the order mentioned in Section 308 is issued shall not obey such order, or show cause against the same as hereinafter provided, or petition for a Jury within the time specified in such order, he shall be liable to the penalty prescribed in that behalf in Section 188 of the Indian Penal Code, and the Magistrate who issued such order may proceed to carry such order into execution at the expense of such person, and may realize such expenses either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of the personal property of the person aforesaid, and no suit or action shall be entertained in any Court in respect of any thing necessarily or reasonably done to give effect to such order.

If Jury find order of Magistrate to be reasonable and proper.

312. If in a case referred to a Jury, the Jury shall find that the order of the Magistrate is reasonable and proper, the Magistrate shall give notice thereof to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned within a time to be fixed therein under the penalty provided by the Indian Penal Code as aforesaid. If such latter order shall not be obeyed, the Magistrate may proceed as in the last preceding Section..

If party ordered satisfy the Magistrate that the order is not reasonable and proper.

383. If the person to whom the order of the Magistrate is issued, shall appear and show cause against the same, and shall satisfy the Magistrate that the order is not reasonable and proper, no further proceeding shall be taken in the case

Issue and enforcement of injunction.

314. If pending the enquiry by a Jury, the Magistrate shall consider that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, it shall be lawful for such Magistrate to issue such an injunction and order to the person mentioned in that behalf in Section 308, as shall be required to obviate or prevent such danger or injury, and in default of such person forthwith taking all necessary measures ordered to be taken by such injunction or order, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury, and no suit or action shall be entertained in respect of any thing necessarily or reasonably done for that purpose.

Saving of certain provisions.

315. Nothing in this Chapter shall interfere with the provisions of Section XLVIII of Act XXIV of 1859 *(for the better regulation of the Police within the territories subject to the Presidency of Fort St. George)* or of Section XXXIV of Act of 1861 *(for the regulation of Police.)*

CHAPTER XXI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

Magistrate may make order for main-

316. If any person having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall

be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child at such monthly rate, not exceeding Fifty Rupees in the whole, as to the Magistrate or other Officer as aforesaid shall seem reasonable; and if such person shall wilfully neglect to comply with the order, the Magistrate or other Officer as aforesaid may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; or may order such person to be imprisoned with or without hard labor for any term not exceeding one month. Provided that if such person offer to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate or other Officer as aforesaid to consider any grounds of refusal stated by such wife; and he may make the order allowed by this Section notwithstanding such offer, if he shall be satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty. No wife or child, shall be entitled to received an allowance from her husband under this Section, if she is living in adultery, or if without any sufficient reason she refuses to live with her husband.

tenance of wives and children.

Enforcement of order.

Proviso.

317. Any person ordered to pay a monthly allowance forthe maintenance of his wife, or child or both, under the provisions of the last preceding Section, may apply to the Magistrate from time to time for the reduction of such allowance, and on proof of an alteration in the circumstances of such person, his wife, or child, justifying such reduction, such Magistrate may make such reduction in the allowance ordered as he may deem fit.

Application for reduction of allowance.

CHAPTER XXI.

OF DISPUTES RELATING TO THE POSSESSION OF LAND OR THE RIGHT OF USE OF ANY LAND OR WATER.

318. Whenever the Magistrate of the District or other Officer exercising the powers of a Magistrate shall be satisfied that a dispute, likely to induce a breach of the peace, exists concerning any land, premises, water, fisheries, crops, or other produce of land, within the limits of his jurisdiction, he shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person, or by agent, within a time to be fixed by the Magistrate or other Officer as aforesaid, and to give in a written statement of their respective claims, as respects the fact of actual possession of the subject of dispute. The Magistrate or other Officer as aforesaid, shall, without reference to the merits of the claims of any party to a right of possession, proceed to enquire which party is in possession of the subject of dispute, and after satisfying himself upon that point, shall record a proceeding declaring the party whom he may decide to be in such possession, to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time.

Magistrate how to proceed if any dispute concerning land, &c. is likely to cause a breach of the peace.

Party in possession to be continued until ousted by due course of law.

319. If the Magistrate or other Officer as aforesaid shall decide that neither of the parties is in possession, or shall be unable to satisfy himself as to which person is in possession of the subject of dispute, he may attach the subject of dispute, until a competent Civil Court shall have determined the rights of the parties, or who ought to be in possession.

If previous possession cannot be ascertained, Magistrate may attach subject of dispute.

320. If a dispute arise concerning the right of use of any land or water, the Magistrate or other Officer as aforesaid within whose jurisdiction the subject of dispute lies may enquire into the matter, and if it shall appear to him that the subject of dispute is open to the use of the public, or of any person, or of any class of persons, the Magistrate or other Officer may order that possession thereof shall not be taken or retained by any party to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the party claiming such possession shall obtain the decision of a competent Court adjudging him to be entitled to such exclusive possession. Provided that the Magistrate or other Officer as aforesaid shall not pass any such order, if the matter be such that the right of use is capable of being exercised at all times of the year, unless that right shall have been ordinarily exercised within three months from the date of the institution of the enquiry, or in cases where the right of use exists at particular seasons, unless such right has been exercised during the last of such seasons before the complaint.

Disputes concerning right of use of land or water.

321. Nothing in this Chapter shall affect the powers of a Collector or a person exercising the powers of a Collector, or of a Revenue Court.

Saving of powers of Collectors and Revenue Courts.

CHAPER XXIII.

OF JURIES AND ASSESSORS.

Local Government by order to specify in what places trials to be by Jury.

322. The local Government may order that the trial of all offences or any particular class of offences by any Court of Session shall be by Jury in any District, and such local Government may from time to time revoke or alter such order. Orders passed under this Section shall be published in the *Government Gazette*, and in such other manner as the local Government shall direct.

How the Jury is to be constituted for the trial of persons belonging to certain specified races.

Proviso.

323. Criminal trials before the Courts of Session in which a European (not being a British subject) or an American is the accused person or one of the accused persons, shall be by Jury; and in such case the Jury, if such European or American desire it, shall consist of at least one-half of Europeans (whether British subjects or not) or Americans if such a Jury can be procured. Provided that in any District in which the local Government shall not have ordered that all trials or trials for all offences of the class within which the trial about to take place falls, shall be by Jury, such European or American may elect to be tried without Jury.

Trials before the Session Court with Assessors.

324. In a trial before the Court of Session not by Jury, the trial shall be conducted with the aid of two or more Assessors as Members of the Court. The opinion of each Assessor shall be given orally and shall be recorded in writing by the Court, but the decision is vested exclusively in the Judge.

How the Jury is to be constituted for the trial of other persons.

325. In a trial by Jury before the Court of Session in which a person not belonging to the races specified in Section 323 shall be tried, at least one-half of the Jury, if the accused person desire it, shall consist of persons not belonging to either of such races.

How the Jury is to be constituted when persons of both descriptions are jointly charged.

326. In any case before the Court of Session in which a person not belonging to the races mentioned in Section 323 is charged jointly with a person belonging to one of those races, and such last mentioned person claims to be tried by a Jury consisting of at least one-half of Europeans or Americans, the person not belonging to either of such races shall, if he desire it, be tried separately.

Number of which the Jury is to consist.

327. In trials by Jury before the Court of Session the Jury shall consist of five persons, or of such number, being an uneven number and not being less than five or more than nine, as the local Government by any general order applicable to any particular District or to any particular classes of offences in that District shall direct

Number of voices necessary to a verdict.

328. If the Jury are unanimous in a verdict of guilty, the accused person shall be convicted. If the Jury shall consist of five persons, and a majority of four find the accused person guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person guilty, or if the Jury shall consist of nine persons and a majority of six find the accused person guilty, the accused person shall be convicted. If the Jury are unanimous in a verdict of not guilty, the accused shall be acquitted. If the Jury shall consist of five persons and a majority of four find the accused person not guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person not guilty, or if the Jury shalll consist of nine persons and a majority of six find the accused person not guilty, the accused person shall be acquitted, and the Judge shall not receive a verdict of acquittal unless it be unanimous or found by such majority as last aforesaid.

List of Jurors and Assessors.

329. The Collector of the District or other Officer exercising the powers of a Collector of a District shall, from time to time, prepare and make out in alphabetical order, a list of persons residing within ten miles from the place where trials before the Court of Sessions are held, or within such other distance as the local Government may think fit to direct, who are in the judgment of the Collector or other Officer as aforesaid qualified from their education and character to serve as Jurors or as Assessors respectively. The list shall contain the name, place of abode, and quality or business of every such person; and if the person belongs to either of the races specified in Section 323, the list shall mention the race to which he belongs.

Publication of list.

330. Copies of such list shall be stuck up in the Office of the Collector or other Officer as aforesaid and in the Court houses of the Magistrate of the District and of the Chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside, and every such copy shall have subjoined to it a notice, stating that objections to the list will be heard and determined by the Collector or other Officer as aforesaid at a time and place to be mentioned in the notice.

Revision of list.

331. The Collector or other Officer as aforesaid shall at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a Juror or as an Assessor, and insert the name of any person omitted therefrom, whom he deems qualified for such service.

A copy of the revised list shall be signed by the Collector or other Officer as aforesaid and transmitted to the Court of Session. Any order of the Collector or other Officer as aforesaid in preparing and revising the list shall be final.

Further revision of list.

332. The list so prepared and revised shall be again revised at least once in every year, and the list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Jurors.

333. Except as hereinafter provided, all male persons between the ages of twenty-one and sixty, resident within the limits of the Jurisdiction of the Court of Session, shall be deemed capable of serving as Jurors and Assessors, and shall be liable to be summoned accordingly.

Disqualifications.

334. The following persons are incapable of serving as Jurors or as Assessors in trials before the Court of Session, namely:—

Persons who hold any Officer in or under the said Court.

Persons executing any duties or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Collector, renders them unfit to serve on the Jury.

Persons who are afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

Exemptions.

335. The following persons are exempt from the liability to serve as Jurors or as Assessors, namely :—

Judges and other Judicial Officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the Revenue whom the Collector may think fit to exempt on the ground of official duty.

Chaplains and others employed in Religious Offices.

All persons in the Military service.

Surgeons and others who openly and constantly practise in the profession of Physic.

Persons employed in the Post Office and Electric Telegraph Departments. Persons actually officiating as priests in their respective religions.

Persons exempted by Government from personal appearance in Court under the provisions of Section 22 of Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.)*

The exemption from service given by this Section is a right of which each person exempted may avail himself or not. Nothing herein contained shall be construed to disqualify any such person if he shall be willing to serve as a Juror or as an Assessor.

Court to summons Jurors.

336. The Court of Session shall ordinarily, three days at the least before the time fixed for the holding of Sessions, cause the Magistrate to summon as many persons named in the said revised list as seem to the Court to be needed for trials by Jury and trials with the aid of Assessors at the said Sessions, the number to be summoned not being less than double the number required for any case about to be tried at such Sessions. The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them, and shall be specified in the precept to the Magistrate.

Form and service of summons.

337. Every summons to a Juror or Assessor shall be in writing, and shall require his attendance as a Juror or Assessor at a time and place to be therein specified. The summons or a copy thereof shall be served on every Juror or Assessor personally. If the Juror or Assessor summoned be absent from his usual place of abode, the summons may be left for him there with some adult male member of his family residing with him.

Power of Court to summon another set of Jurors or Assessors.

338. The Court of Session may direct Jurors or Assessors to be summoned at other periods than the period specified in Section 336 when the number of trials before the Court renders the attendance of one set of Jurors or Assessors for a whole Session oppressive, or whenever it may be found to be necessary.

Service of summons to serve as Juror or Assessor, on an Officer of Government.

339. If any person summoned to serve as a Juror or Assessor, be an Officer of Government, the summons shall be transmitted to such person through the Head Officer of the Office in which he is employed, and the Court may excuse the attendance of such person if it shall appear on the representation of such Head Officer that such person cannot serve as a Juror or Assessor without inconvenience to the public service.

Court may excuse attendance of a Juror or Assessor.

340. The Court of Session may excuse any Juror or Assessor from attendance for reasonable cause.

List of names of Jurors or Assessors attending at each Session.

341. At each Session the Court shall cause to be made a list of the names of those who serve as Jurors or Assessors at such Session. The list shall be kept with the revised list of the Jurors and Assessors prepared under Section 331. A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this Section.

Jurors to be chosen by lot.

Assessors to be selected by Judge.

342. Whenever a trial by Jury is to be held, the persons who are to constitute the Jury shall be chosen by lot immediately before the commencement of the trial from the Jurors who attend in obedience to the summons. If the trial is to be held with the aid of Assessors, the Judge shall select from the persons summoned to act as Assessors, two or more persons to assist him in such trial.

Names of Jurors to be called.

Objections.

343. Before the commencement of a trial by Jury the names of the Jurors shall be called aloud, and upon the appearance of each Juror, the accused person shall be asked if he objects to be tried by such Juror. Any objection may then be made to such Juror by the accused person or by the Government Pleader or other person appointed to conduct the prosecution, and the grounds of objection shall be stated. Any objection made to a Juror shall be decided by the Court and the decision of the Court shall be final. If an objection be allowed, the place of such Juror shall be supplied by any other Juror in attendance in obedience to a summons, or if there be no such Juror present, then by any other person present in the Court whose name is on the list of Jurors, or whom the Court shall consider a proper person to serve on the Jury, provided no objection to such Juror or other person be made and allowed.

Grounds of objection.

344. Any objection taken to a Juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(1.) Any ground of disqualification within Section 334.

(2.) Standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person on whose complaint the prosecution was instituted, or to the person accused; being in the employment on wages of either of such persons; being plaintiff or defendant against either of such persons in any Civil suit, or having complained against or having been accused by either of such persons in any Criminal prosecution.

(3.) Any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favor to, either of such persons.

Juror to understand the language in which evidence is given or interpreted.

345. The Judge shall not allow any person to serve on the Jury, unless such person understands the language in which the evidence is given or interpreted.

Foreman of Jury.

346. The Jury shall appoint one of their number to be Foreman. It shall be the duty of such Foreman to preside in the debates of the Jury, to deliver the verdict of the Jury, or ask any information from the Court that may be required by the Jury. If a majority do not agree in the appointment of a Foreman, he shall be named by the Court.

The same Jury or Assessors may try in succession several offenders.

347. The same Jury, if not objected to, may try, or the same Assessors may aid in the trial of, as many accused persons successively as to the Court shall seem expedient.

View by Jury or Assessors.

348. Whenever in the opinion of the Court it may be proper and convenient that the Jury or Assessors should have a view of the place in which the offence charged is said to have been committed, or of any other place in which any other transaction material to the enquiry in the trial took place, an order shall be made to that effect, and the jury or Assessors shall be conducted in a body under the care of an Officer of the Court to the place which shall be shown to them by a person appointed by the Court, and it shall be the duty of the Officer not to suffer any other person to speak to or hold any communication with any of the Jury or Assessors, and they shall, when the view is finished, be immediately conducted back into Court.

Mode of summoning and empanelling Jurors for a Jury constituted under Section CCCXXIII.

349. When a trial is held in which the accused person or one of the accused persons is entitled to be tried by a Jury constituted under the provisions of Section 323 of this Act, the Court of Session shall, three days at the least before the day fixed for holding such trial, cause to be summoned in the manner prescribed in Section 336 such a number of Jurors of the races mentioned in Section 323 as is equal to the total number of Jurymen required for the trial, if so many of such races be on the Jury List of the District. The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been summoned for Jury trials at that Session. The names of the persons to be summoned shall be drawn by lot, excluding those who have served within six months, unless the number cannot be made up without them. From the whole number of persons returned, the Jurors who are to constitute the Jury shall be taken by lot in

the manner prescribed Section 342, until a Jury, containing the proper number of the races mentioned in Section 323, or a number approaching as nearly thereto as possible, has been obtained. The Jurors shall be liable to the same objections as any other Jurors. If a Jury containing the requisite number of the races mentioned in Section 323 be not obtained, the accused person may elect to be tried by the Judge with the aid of Assessors; otherwise he shall be tried by the Jury obtained by the means aforesaid.

If prior to finding, any of the Jury be unable to proceed with the trial.

350. If, in the course of a trial by Jury at any time prior to the finding, any Juror shall, from any sufficient cause, be prevented from attending through the trial, or if any Juror shall absent himself, and it shall not be possible to enforce his attendance, a new Juror shall be added, or the Jury shall be discharged, and a new Jury empannelled, and in either case the trial shall commence anew.

Verdict of guilty by less than the specified majority of Jury.

351. In any trial by Jury if the accused person is found guilty by a majority consisting of a less number of the Jury than is specified in that behalf in Section 328 of this Act, or if the accused person be found not guilty by a majority consisting of a less number of the Jury than is therein in that behalf specified, the Jury shall be discharged, and in any such case as aforesaid there shall be a new trial before a Jury consisting entirely of other Jurors, and the accused person may be remanded or held to bail for such new trial. If, on any new trial by Jury, the accused person shall not be found guilty by a majority consisting of such a number as aforesaid, he shall be acquitted.

When and how long Jury may retire for finding.

352. At the close of the trial, and after the judge has summed up the evidence as hereinafter provided by Section 379 of this Act, the Jury may retire to consider their finding, and it shall be the duty of an Officer of the Court not to suffer any person to speak to or hold any communication with any member of such Jury. In any case in which a Jury shall be prepared to deliver their finding, the Judge shall ask the Jury whether they are unanimous, and if the Foreman or one of the Jury shall declare that they are not unanimous, the Judge may require such Jury to retire for further consideration. If after such a period as the Judge shall consider reasonable, the Foreman or any one of the Jury shall declare that they are not unanimous, the Jury may deliver their verdict.

If either of the Assessors be unable to proceed with trial.

353. If, in the course of a trial with the aid of Assessors, at any time prior to the finding, any Assessor shall, from any sufficient cause, be prevented from attending through the trial, the trial shall proceed with the aid of the other Assessor or Assessors. If all the Assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh Assessors.

Penalty for non-attendance of Juror or Assessor.

354. Any person summoned to attend as a Juror or as an Assessor, who shall without lawful excuse fail to attend as required by the summons or having attended shall depart without having obtained the permission of the Court, shall be liable by order of the Court of Session to a fine not exceeding One Hundred Rupees, to be levied by the Magistrate of the District by attachment and sale of any moveable property belonging to such Juror or Assessor within the jurisdiction of the Court making the order, or in default of recovery of the fine by such attachment and sale, such Juror or Assessor may be imprisoned in the Civil Jail for the space of fifteen days if the fine be not sooner paid.

CHAPTER XXIV.

OF SUBORDINATE JUDGES AND PRINCIPAL SUDDER AMEENS IN THE PRESIDENCY OF FORT SAINT GEORGE.

Criminal Jurisdiction and powers of punishment of Subordinate Judges and principal Sudder Ameens.

355. The Subordinate Judges and Principal Sudder Ameens in the Presidency of Fort Saint George shall continue to exercise under this Act, subject to the provisions of the Indian Penal Code, the Criminal jurisdiction which they are competent to exercise under any law for the time being in force, and shall have the same powers of punishment as are given by this Act to an Officer exercising the powers of a Magistrate.

What cases Subordinate Magistrates may commit and what cases they may refer to Magistrate.

356. Subordinate Magistrates of the first and second class in the presidency of Fort Saint George shall commit to the Court of Session any person charged with offences triable exclusively by that Court, or shall, under such orders as the Sudder Court shall from time to time issue, either commit to the Subordinate Judges or Principal Sudder Ameens the cases of persons accused of offences triable by such Subordinate Judges or Principal Sudder Ameens, or refer such cases for the orders of the Magistrate of the District or other officer exercising the powers of a Magistrate. If the case be referred to the Magistrate of the District or other Officer as aforesaid, such Magistrate or other Officer shall examine the

parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

Subordinate Magistrate after trial may refer to Magistrate of the District.

357. If in any case tried by a Subordinate Magistrate of the first or second class in the Presidency of Fort Saint George in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than such Magistrate is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate of the District or other Officer exercising the powers of a Magistrate, and the Magistrate of the District or other Officer as aforesaid shall pass such sentence or order in the case as he may deem proper and as shall be according to law. In any such case, the Magistrate or other Officer to whom the proceedings are submitted may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Cases committed for trial before Subordinate Judges and Principal Sudder Ameens.

358. In cases committed for trial before the Subordinate Judges or Principal Sudder Ameens in the Presidency of Fort Saint George, they shall be guided by the rules contained in this Act for the trial of cases before the Magistrate, which are hereby made applicable to such cases. The Subordinate Judges and Principal Sudder Ameens may commit any case to the Court of Session in which the evidence is such as to warrant a presumption that the accused person has been guilty of an offence calling for a more severe punishment than such Subordinate Judges or principal Sudder Ameens are authorized to adjudge.

CHAPTER XXV.

TRIALS BEFORE THE COURT OF SESSION.

Cognizance of offences by the Court of Session in original jurisdiction.

359. Except in the case referred to in Section 172 of this Act, a Court of Session, as a Court of original criminal Jurisdiction, shall not take congizance of any offence but upon a charge preferred by a Magistrate or other Officer specially empowered under this Act or under any other law to make commitments to such Court.

Every trial before Court of Session to be conducted by Government Pleader, etc.

360. In every trial before a Court of Session, the prosecution shall be conducted by the Government Pleader or by some other Officer specially empowered in that behalf, and the complainant, if there be a complainant, shall be examined as a witness in the case.

Postponement of trial.

361. A Court of Session may direct the postponement of a trial, when it is satisfied that such postponement is proper and will promote the ends of Justice.

Commencement of trial.

362. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried. If the accused person plead guilty, the plea shall be recorded, and the accused may be convicted thereon.

Refusal to plead or plea of claim.

363. If the accused person shall refuse to plead, or shall claim to be tried, the Court shall proceed to try the case, taking all the evidence that is forthcoming.

Provisions relating to examination of parties, &c., on trials before Magistrate to be applicable to trials before Court of Session.

364. The provisions of Sections 195, 196 197, 198, 199, and 200, of this Act, relating to the examination of parties and witnesses, the mode of recording evidence and the correction, attestation, and interpretation thereof in trials before the Magistrate shall be applicable to trials before the Court of Session under this Chapter.

Witness refusing to answer may be committed to custody.

365. If any witness shall refuse to answer any question which shall be put to him, and shall not offer any just excuse for such refusal, the Court may commit such witness to custody for such reasonable time as it may deem proper, unless he shall in the meantime consent to be examined and to answer. In the event of such witness persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Examination of accused before the Magistrate to be evidence at the trial.

366. The examination of the accused person before the Magistrate shall be given in evidence at the trial. The attestation of the Magistrate shall be sufficient *primâ facie* proof of such examination, and such attestation shall be admitted without proof of the signature to it, unless the Court shall see reason to doubt its genuineness.

Court may summon necessary evidence.

367. It shall be in the discretion of the Court, at any stage of a trial, to summon and examine any witness whose evidence it shall consider essential to the just decision of the case. The Court may also examine as a witness any person in attendace although not summoned as a witness.

Evidence of medical witness.

368. The Court shall receive as *primâ facie* evidence the examination of a Civil Surgeon or other medical witness taken and duly attested by the Magistrate. Provided that it shall be competent to the Court to Summon such Civil Surgeon or other Medical witness, if it shall see sufficient cause for doing so.

369. The examination of a witness taken and attested by the Magistrate in the presence of the accused person may be given in evidence if the witness be dead or the Court be satisfied that for any sufficient cause his attendance cannot be procured.

Examination of witness taken and attested by Magistrate when admissible.

370. Any document purporting to be a report from the Chemical Examiner or Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any criminal trial or in any preliminary enquiry relating thereto, shall be received in evidence at a trial by the Court of Session, if it bear the signature of such Examiner, and no proof of such signature or that the person signing holds such office, shall be requisite unless the Court shall see reason to doubt the genuineness of the document.

Report of Chemical Examiner admissible in evidence.

371. The declaration of a deceased person, whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

Dying declaration.

372. When the case for the prosecution has been brought to a close, the accused person shall be called upon to enter upon his defence, and to produce his evidence.

Defence.

373. The Court, at the close of the evidence on behalf of the accused person if any evidence is adduced on his behalf, or otherwise at the close of the case for the prosecution, may put any question to the accused person which it may think proper. It shall be in the option of the accused person to answer such question.

When accused person may be examined.

374. The accused person or his Counsel or Agent may, at his option, address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf, or if any question shall be put to the accused person by the Court, after such question shall have been so put.

When accused may address the Court.

375. The accused person shall be allowed to examine any witness not previously named by him if such witness be in attendance, but he shall not be entitled of right to have any other witness summoned than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial, except as provided in Section 246 of this Act.

Witness for the defence.

376. If any evidence is adduced on behalf of the accused person, or if he answers any question put to him by the Court, the prosecutor, or the Counsel or Agent for the prosecution, shall be entitled to a reply.

Prosecutor's right of reply.

377. The Court may in its discretion, from time to time, adjourn the trial as may be necessary.

Adjournment.

378. In the event of the adjournment of a trial by Jury or with the aid of Assessors, the Jury or Assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting until the conclusion of the trial; and any Juror or Assessor who shall without lawful excuse fail so to attend, shall be liable to the penalty prescribed in Section 354 of this Act, and such penalty shall be enforced in the manner therein prescribed.

Jury or Assessors to attend at adjourned sitting.

379. In a trial by Jury, the Judge shall sum up the evidence on both sides, and the Jury shall then deliver their finding upon the charge. A statement of the Judge's direction to the Jury shall form part of the record. In trials not by Jury, the ground of the Judge's decision shall be recorded.

Of verdict of Jury.

380. If the accused person is acquitted, the Court shall record a judgment of acquittal. If the accused person is convicted, the Court shall proceed to pass sentence upon him according to law. Provided that if the Court pass sentence of death, the sentence shall not be executed without the confirmation of the Sudder Court. If the accused person shall be convicted of an offence which by the Indian Penal Code is punishable with death, and the Court shall sentence such person to any punishment other than death, the Court shall state the grounds upon which it remitted the punishment of death in the statement of trials to be periodically submitted to the Sudder Court, as hereinafter required, under the head of "Sentences passed upon the accused persons."

Acquittal or conviction.

CHAPTER XXVI.

FINDING, JUDGMENT, AND SENTENCE.

381. When the trial in any Criminal Court is concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the Section of the Indian Penal Code under which he is convicted, or if it be doubtful under which of two Sections the offence falls, shall distinctly express the same, and pass judgment in the alternative, according to Section 72 of the said Code.

What the judgment is to specify.

Form of finding and sentence.

382. The finding and sentence shall be recorded in one of the following forms, or to the same effect :—

In trials by Jury :—

When the Jury are unanimous :—

The Jury are unanimous in finding that Z is guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

2nd. The Jury are unanimous in findint that Z is not guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be discharged.

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused guilty :

3rd. A majority (stating the number, consisting of four out of five, or five or six out of seven, or six, seven, or eight out of nine, as the case may be) find that Z is guilty of the offence specified in the charge, namely that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be [*sentence.*]

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused not guilty.

4th. A majority of the Jury (stating the number, as above,) find that Z is not guilty of the offence specified in the charge namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be discharged.

When the Jury, or such a majority as is required by Section 328 of this Act concur in finding the accused guilty of an offence, but are doubtful under which of two heads of a charge the offence falls :

5th. The Jury, or a majority of the Jury (stating the number, as above,) find that Z is guilty either of the offence specified in the first head of the charge, or of the offence specified in the second head of the charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the said Code. The Court directs that, under the provisions of the above-mentioned Sections and the provisions of Sections 72 of the Indian Penal Code, the said Z be [*sentence.*]

When a majority less than the number required by Section 328 of this Act. find the accused guilty :

6th. A majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the charge, namely, that he has committed &c., &c., the Court directs that the Jury be discharged, and that there be a new trial.

A similar form shall be followed if a verdict of not guilty is found by a majority less than is required by Section 328 of this Act.

If the finding be on a second trial, and a majority less than is required by Section 328 of this Act, find the accused guilty :

7th. A Majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the charge, namely, that he has committed &c., &c,. This being a second trial under Section 351 of the Code of Criminal Procedure, the Court directs that the said Z be discharged.

In trials with Assessors:

9th. The Court, concurring with the Assessors (or one or more of the Assessors) finds that Z is guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

10th. The Court, differing from the Assessors, finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be discharged.

11th. Court, concurring with one of the Assessors, finds that Z is guilty either of the offence specified in the first head of charge, or of the offence specified

in the second head of charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the Indian Penal Code; and the Court directs that, under the provisions of the above-mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence.*]

In trials upon a formal charge, without Jury or the aid of Assessors:

12th. The Court finds that Z is guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

13th. The Court finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be discharged.

In trials in which no formal charge has been prepared:

14th. The Court finds that Z has used criminal force and has thereby committed an offence punishable under Section 353 of the Indian Penal Code, and directs that the said Z be [*sentence.*]

15th. The Court finds that the complaint of assault is not proved, acquits Z, and directs that he be discharged.

Execution of sentence of Court in cases referred to the Sudder Court for confirmation of sentence.

383. In cases referred by the Court of Session for the confirmation of a sentence by the Sudder Court, the proper Officer of the Sudder Court shall, without delay, after the order of confirmation or other order has been made by the Sudder Court, transmit a copy of the order under the seal of the Sudder Court, and attested with his official signature, to the Court of Session, which, if the sentence be confirmed, shall immediately issue a warrant to the Magistrate or other Officer in charge of the jail in which the prisoner is confined to cause the sentence or order to be carried into execution; or in the case of any other order, shall cause such order to be carried into effect.

Court of Session to direct warrant to District Magistrate.

384. In cases tried by the Court of Session, the Court shall forward a copy of its sentence, together with a warrant for the execution of the same, directed to the Magistrate of the District in which the trial was held or to such other Officer as aforesaid.

Execution of sentence under the last foregoing Sections.

385. Upon the receipt of a warrant under either of the last two preceding Sections the Magistrate or other Officer as aforesaid shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

386. Repealed by Act VIII. of 1869.

Transmission of periodical calendars of trials by Court of Session.

387. The Court of Session shall transmit to the Sudder Court such periodical statements or calendars of trials held by such Court as the Sudder Court shall prescribe, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

CHAPTER XXVII.

OF LUNATICS.

Procedure in case of accused person being lunatic.

388. When any person who is charged with an offence shall appear to the Magistrate having jurisdiction to be of unsound mind and incapable, in consequence, of making a defence, the Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District or some other Medical Officer, and thereupon shall examine such Civil Surgeon or other Medical Officer, and shall reduce the examination into writing; and if the Magistrate shall be of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

Procedure in case of person committed before a Court of Session being lunatic.

389. If any person who shall be committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of of making his defence, the Court shall in the first instance try the fact of such unsoundness of mind and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence, and thereupon the trial shall be postponed.

Release of lunatic pending investigation or trial.

390. In any case in which an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented

from doing injury to himself or to any other person, and for his appearance when required. If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the local Government to which the case shall be reported shall direct.

Resumption of investigation of case.

391. Whenever any investigation or trial of a case shall be postponed under Section 388 or Section 389 of this Act, the Magistrate or Court of Session, as the case may be, may at any time resume the investigation or trial, and require the accused person, if detained in custody, to be brought before such Magistrate or Court, or if the accused person has been released on security, may require his appearance. Until such investigation or trial is completed, the case shall be considered as pending before the Magistrate or Court of Session, and shall be included in any register of pending cases kept by such Magistrate or Court. The surety of such person shall be bound at any time to produce him to any Officer whom the Magistrate or Court of Session may appoint to inspect him, and the certificate of such Officer shall have the same effect as the certificate of an Inspector of Jails or the Visitors of Lunatic Asylums granted under Section 395 of this Act.

Procedure on accused appearing or being brought before Magistrate or Court of Session.

392. If, when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it shall appear to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the investigation shall proceed, or the accused person shall be put on his trial as the case may require. If it shall appear that the accused person is still of unsound mind and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of Section 388 or Section 389 of this Act.

Procedure in case of acquittal of accused person on the ground of being lunatic.

393. Whenever any person is acquitted, upon the ground that at the time at which he is charged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act charged or that he was doing what was wrong or contrary to law, the finding shall state specially whether he committed the act or not.

Person so acquitted to be disposed of by Magistrate or Court of Session for safe custody &c.

394. Whenever such finding shall state that the accused person committed the act charged, the Magistrate or Court of Session before whom the trial was held, shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session shall seem fit, and shall report the case for the order of the local Government. The local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

Lunatics to be visited and reported on by Inspector of Jails, &c.

395. *Clause* 1. When any person is confined under the provisions of Section 390 or Section 394 of this Act, it shall be lawful for the Inspector of Jails if such person is confined in a Jail, or for the Visitors of Lunatic Asylums or any two of them if such person is confined in a Lunatic Asylum, to visit such person in order to ascertain his state of mind; and such person shall be visited once at least in every twelve months by such Inspector of Jails or by two of such Visitors as aforesaid, who shall make a special report as to the state of mind of such person.

Clause. 2, If such person is confined under Section 390 of this Act, and such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid shall report that in his or their opinion such person is capable of making his defence, such person shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session shall appoint; and such Magistrate or Court shall deal with such person under the provisions of Section 392, and may receive as evidence the certificate of such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid.

Clause. 3. If such person shall be confined under the provisions of Section 394 of this Act, and such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid shall certify that in his or their judgment such person may be discharged without danger of his doing injury to himself or to any other person, the local Government shall thereupon either order his discharge or order such person to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and shall within six months appoint a commission consisting of a Judicial Officer not below the grade of a Sessions Judge, and two Medical Officers whereof the Chief Medical Officer attached to the Lunatic Asylum shall be one. The said commission shall make formal enquiry into the state of of mind of such person, taking such evidence as shall be necessary; and if they consider that he can be set at liberty without danger to himself or to any other person, he shall be discharged.

Person under sentence of imprisonment appearing to be of un-

396. Whenever it shall appear to the local Government that any person, imprisoned by the sentence of any Court or Magistrate, is of unsound mind, the local Government, by an order which shall set forth the grounds of belief that

such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, there to be kept and treated as the local Government shall direct during the remainder of the term of imprisonment ordered by the sentence, or if it shall be certified by a Medical Officer that it is necessary for the safety of the prisoner or others that he should be detained under care and treatment, then until he shall be discharged according to law; and when it shall appear to the local Government that such person has become of sound mind, the local Government, by an order directed to the person having charge of him, shall remand such person to the custody from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged out of custody. The provisions of Section IX of Act XXXVI of 1858 *(relating to Lunatic Asylums)* shall apply to persons confined in a Lunatic Asylum under this Section after the expiration of the imprisonment ordered by the sentence. The period during which a person shall be confined in a Lunatic Asylum shall be reckoned as part of the period of imprisonment ordered by the sentence.

unsound mind, may be removed to Lunatic Asylum, and kept till he shall again become of sound mind, &c.

397. Whenever any relative or friend of any person detained under the provisions of Section 394 of this Act is desirous that such person shall be delivered over to his care and custody, the local Government, upon the application of such relative or friend and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that the person so detained may be delivered to such relative or friend. Whenever such person shall be so delivered over, it shall be upon condition that he shall be subject to the inspection of such Officer as the local Government shall think necessary to appoint, and at such times as such Government shall direct. The provisions of Section 395 shall apply to persons detained under the provisions of this Section, and the certificate of the Inspecting Officer appointed under this Section shall have the same effect as a certificate of an Inspector of Jails or the Visitors of Lunatic Asylums under the said Section.

When lunatic may be delivered over to the care and custody of a relative or friend.

CHAPTER XXVIII.

SUDDER COURT AS A COURT OF REFERENCE.

398.* A case referred, to a Sudder Court by a Court of Session for confirmation of a sentence of death, shall be heard by a Court constituted by two or more Judges of such Sudder Court.

Constitution of Court for hearing case referred for confirmation of sentence.

399. In any case so referred, the Sudder Court may either confirm the sentence or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge. If the case shall have been tried by the Court of Session with the aid of Assessors, it shall further be competent to the Sudder Court to acquit the accused person and order his discharge.

Power of Sudder Court to confirm, reverse, &c., sentence.

400. If the case so referred shall have been tried by the Court of Session with the aid of Assessors, it shall be competent to the Sudder Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, to direct such enquiry to be made, or such additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Sudder Court, and the Sudder Court shall thereupon proceed to pass judgment of acquittal or such sentence as to the Court shall seem right.

Competence of Sudder Court to direct further enquiry, &c.

401.* In every case so referred to the Sudder Court, the confirmation of the sentence or any new sentence or order passed by the Sudder Court shall be signed by at least two Judges of the Court.

Confirmation or new sentence must be signed by two Judges.

CHAPTER XXIX.

SUDDER COURT AS A COURT OF REVISION.

402. The Sudder Court, in any case tried by the Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement or calendar, shall annul the sentence, and shall certify to the Court of Session the sentence which may lawfully be passed for such offence; and thereupon the Court of Session shall pass a new sentence according to law, and shall amend the record in accordance therewith.

Revision in cases of illegal sentence.

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* *Vide* Act XV. 1862, Section 2.

Revision of trials.

403. The Sudder Court, in any case tried before a Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that there has been error in the decision of the Court of Session on a point of law, or that a point of law should be considered by the Sudder Court, may call for the record, or such portion thereof as it may deem necessary, together with a report of the Judge's direction to the Jury, if the case have been tried by a Jury, and upon reviewing the depositions of the witnesses, the direction of the Judge, and the conviction, may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

General power of revision by the Sudder Court.

404. The Sudder Court may, on the report of a Court of Session or of a Magistrate, or whenever it thinks fit, call for the record of any criminal trial or the record of any judicial proceeding of a Criminal Court, other than a criminal trial, in any Court within its jurisdiction, in which it shall appear to it that there has been error in the decision on a point of law, or that a point of law should be considered by the Sudder Court, and may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

Sudder Court empowered to call for and examine records of Court of Session.

405. It shall be lawful for the Sudder Court to call for and examine the record of any case tried by any Court of Session for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court. If it appear to the Sudder Court that the sentence passed is too severe, the Sudder Court may pass any mitigated sentence warranted by law. If the Sudder Court shall be of opinion that the sentence or order is contrary to law, the Sudder Court shall reverse the sentence or order and pass such judgment, sentence, or order as to the Court shall seem right, or, if it deem necessary, may order a new trial.

Proceedings of a case revised by Sudder Court to be certified to Court in which conviction was had.

Proviso.

406. Whenever a case shall be revised by the Sudder Court under this Chapter, the Sudder Court shall certify its decision or order to the Court in which the conviction was had or by which the order was passed, and such Court shall thereupon make such orders as are conformable to the decision of the Sudder Court, and if necessary amend the record in accordance therewith. Provided that, in any case which shall be revised by the Sudder Court under this Chapter, it shall not be competent to the Sudder Court to reverse the verdict of the Jury, or, except as provided in this Chapter, to alter or reverse the sentence or order of the Court below.

CHAPTER XXX.

APPEALS.

No appeal in cases of acquittal.

407. There shall be no appeal from a judgment of acquittal passed in any Criminal Court.

Appeals in what cases in trials by Jury or with Assessors.

408. Any person convicted on a trial held by a Court of Session may appeal to the Sudder Court. If the conviction was in a trial held with the aid of Assessors, the appeal may be on a matter of fact as well as on a matter of law. If the conviction was on a trial by Jury, the appeal shall be admissible on a matter of law only.

Appeals from Magistrates.

409. Any person convicted on a trial held by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or required by such Magistrate or other Officer under Section 295 or Section 296 of this Act to give security for good behaviour, may appeal to the Court of Session to which such Magistrate or other Officer is subordinate.

Appeals from Justices of the Peace.

410. Any person convicted and sentenced by any Justice of the Peace exercising jurisdiction under the Statute 53 Gorge III, *c.* 155, *s.* 105, or under Act VII of 1853 *(to extend the jurisdiction of Magistrates under the 53 George III, c. 155, s. 105, in cases of assault, forcible entries, and other injuries accompanied with force, not being felonies)*, or under Section 163 or 165 of this Act, may appeal to the Court of Session having jurisdiction at the place at which the appeal would have been heard had the sentence been passed by a Magistrate subordinate to such Court. Cases appealed under this Section shall not be afterwards liable to revision by means of a writ of *certiorari*. Provided that nothing in this Section shall be held to take away the power of quashing any conviction by means of a writ of *certiorari* in any other case than when there has been such an appeal as aforesaid.

No appeal in certain criminal cases.

411. In all cases in which a Court of Session or the Magistrate of a District or other Officer exercising the powers of a Magistrate shall pass a sentence of imprisonment not exceeding one month, or of a fine not exceeding Fifty Rupees. no appeal shall be allowed.

412. Any person convicted on a trial held by an Officer exercising powers less than those of a Magistrate, may appeal to the Magistrate of the District or other Officer exercising the powers of a Magistrate who shall have been empowered by the Government to hear such appeals.

Appeals from Officers exercising powers less than those of a Magistrate.

413. Any person convicted by any Civil Court under Chapter X of this Act, may appeal to the Court to which decress or orders made in such Court are ordinarily appealable, subject to the rules provided in Sections 416, 417, 418, 419, and 421 of this Act. Petitions of appeal under this Section, if presented to any District Court, must be presented within thirty days immediately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder and District Courts may admit an appeal after the time herein provided on sufficient cause shown.

Appeals from orders under Chapter X.

414. Unless otherwise provided by this Act or by any other law for the time being in force, no appeal shall lie from any order or sentence of a Criminal Court.

Unless otherwise provided, no appeal to lie from any order or sentence of a Criminal Court.

415. Petitions of appeal to the Court of Session or to any Court subordinate to the Court of Session must be presented within thirty days immediately following and execlusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder Court and the Court of Session may admit an appeal after the time herein provided on sufficient cause shown.

Period of presenting petitions of appeal.

416, Every petition of appeal shall be accompanied by a copy of the sentence or order appealed against.

Copy of judgment to accompany petition.

417. It shall be competent to the appellate Court to reject the appeal if, on a perusal of the petition of appeal and the copy of the sentence or order appealed against, and after hearing the appellant or his counsel or agent if they appear, the Court shall consider that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against. Before rejecting the appeal, the Court may call for and peruse any part of the proceedings of the lower Court, but shall not be bound so to do.

Appellate Court may reject petition of appeal.

418. If the party appealing be in Jail in pursuance of the sentence or order appealed against, he shall be at liberty to present his petition of appeal and the copy of the sentence or order appealed against, to the Magistrate or other Officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Appeal by party in Jail.

419. The Appellate Court, after perusing the proceedings of the lower Court, and after hearing the plaintiff or his counsel or agent if they appear, may alter or reverse the finding and sentence or order of such Court, but not so as to enhance any punishment that shall have been awarded.

Appellate Court may call for the proceedings of lower Court.

420. Repealed by Act VIII. 1869.

421. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable he may order that he be released on bail.

Appellate Court may suspend sentence pending appeal and release defendant on bail.

422. In any case in which an appeal has been allowed, it shall be competent to the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, to direct such enquiry to be made and additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and the Appellate Court shall thereupon proceed to pass such Judgment, sentence, or order as to such Court shall seem right.

Appellate Court may direct further enquiry, &c.

423. No finding by a Court of the offence of dishonest misappropriation of property under Section 403 of the Indian Penal Code, or of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of criminal breach of trust under Section 405 of the said Code, or of criminal breach of trust by a carrier, wharfinger or warehouse-keeper under Section 407 of the said Code, or of criminal breach of trust, as a clerk or servant under Section 408 of the said Code, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of theft under Section 378 of the said Code, or the offence of theft in a building tent or vessel under Section 380 of the said Code, or the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the said Code.

Finding of dishonest misappropriation not reversible on the ground of the offence proved being theft.

424. No finding by a Court of the offence of theft under the said Section 378 of the Indian Penal Code, or of theft in a building, tent or vessel under

Finding of theft not reversible on the

ground of the offence proved being dishonest misappropriation.

the said Section 380, or of theft as a clerk or servant of property in the possession of his master under the said Section 381, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of dishonest misappropriation of property under the said Section 403, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under the said Section 404, or the offence of such dishonest misappropriation under the said Section, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under the said Section 405, or the offence of criminal breach of trust as a carrier, wharfinger or warehouse-keeper under the said Section 407, or the offence of criminal breach of trust as a clerk or servant under the said Section 408.

Saving of power of Appellate Court to reduce punishment awarded under last two Sections.

425. Provided that nothing in the last two Sections shall preclude the Appellate Court in any case mentioned therein from reducing the punishment awarded by a lower Court in such case, within the limits prescribed for the offence which such Appellate Court shall consider to have been proved by the evidence against the accused person.

Finding or sentence not ordinarily reversible by reason of error or defect in the charge or the proceedings.

426. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or defect either in the charge or in the proceedings on trial, unless the accused person shall have been sentenced to a larger amount of punishment than could be awarded for the offence of which, in the judgment of the Appellate Court, the accused person ought upon the evidence to have been found guilty, or unless, in the judgment of the Appellate Court, the accused person shall have been prejudiced by such error or defect; and in case the accused person shall have been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the Judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Appellate Court may reduce punishment.

Court of Appeal how to proceed in case of conviction by a Court not having jurisdiction.

427. When a Court subordinate to a Court of Session shall have convicted a person of an offence not triable by such Court, it shall be competent to the Appellate Court to annul the conviction and sentence of such Court, and to direct the trial of the case by a Court of competent jurisdiction.

Finality of orders on appeal.

428. Except as provided in Section 405 of this Act, sentences and orders passed by an Appellate Court upon appeal shall be final.

CHAPTER XXXI.

GENERAL RULES.

In what language sentence to be written.

429. Every sentence or final order of a Criminal Court, together with the reasons for making or passing the same, shall be written in the vernacular langnage of the presiding Officer, and shall be dated and signed by such Officer at the time of his making or passing the same, and the original shall be filed with the record or proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in proceedings before such Officer, shall be incorporated in the record of the sentence or order.

When it may be written in English.

430. If the vernacular language of the presiding Officer be not English, and the Officer be sufficiently conversant with the English language to be able to write the sentence or final order in a clear and intelligible manner in that language, and prefer to write the same in that language, the sentence or final order may be written in English.

Employment of Interpreter.

431. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, such interpreter shall be sworn in the manner provided for witnesses by any law for the time being in force, to interpret truly such evidence or statement, and such interpreter shall be bound to state the truth in his interpretation of such evidence or statement.

Right of accused to be defended by Counsel.

432. Every person charged before any Criminal Court with an offence may of right be defended by Counsel or authorized agent.

Confinement of youthful offenders in reformatories.

433. When any person under the age of sixteen years shall be sentenced by any Magistrate or Court of Session to imprisonment for any offence, it shall be lawful for such Magistrate or Court to direct that such offender, instead of being imprisoned in the Criminal Jail, shall be confined in any reformatory which may be recognised by the local Government as a fit place for confinement, in which there may be means of suitable discipline and of training in some branch of useful industry, and which shall be kept by a person willing to obey such rules

as the Government may direct with regard to the discipline and training of persons confined therein. All persons confined under this Section shall be subject to the rules so laid down by Government.

Powers of Court of Session and Magistrate to regulate the proceedings of Subordinate Courts.

434. It shall be at all times lawful for a Court of Session and for a Magistrate to call for and examine the record of any Court immediately subordinate to such Court or Magistrate for the purpose of satisfying themselves as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court. If the Court of Session or Magistrate shall be of opinion that the sentence or order is contrary to law, the Court or Magistrate shall refer the proceedings for the orders of the Sudder Court. It shall not be lawful for any other Court than the Sudder Court to alter any sentence or order of any subordinate Court except upon appeal by parties concerned duly made according to the provisions of Chapter XXX of this Act.

When Court of Session may order commitment of party discharged by Magistrate.

435. In the case of offences not triable by the Magistrate, the Court of Session may order the commitment to the Court of Session of any accused person who may have been discharged by the Magistrate. In the case of such offences the Court of Session may order an enquiry into any complaint which the Magistrate may have dismissed without enquiry.

Power of Court of Session to direct bail.

436. The Court of Session may direct that any accused person shall be admitted to bail or that the bail required by a Magistrate be reduced.

Deposit may be made instead of bail.

437. When any person is required by any Criminal Court to give bail, it shall be lawful to such Court to permit such person to deposit a sum of money or Government promissory notes to such amount as such Court may fix in lieu of such bail.

Expenses of prosecutors and witnesses.

438. It shall be lawful for the Court of Session, in any case in which it shall appear proper, to order payment by or on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

No trial, &c., to be set aside for irregularity of procedure.

439. No trial held in any Criminal Court shall be set aside, and no judgment passed by any Criminal Court shall be reversed either on appeal or otherwise for any irregularity in the proceedings of the trial, unless such irregularity have occasioned a failure of justice.

Copy of sentence or order to be furnished on application.

440. A copy of the final sentence or order passed by any Criminal Court shall be furnished without delay on the application of any party to the case in which such sentence or order was passed. Such copy shall be made at the expense of the party applying for it, unless such party is in confinement under the sentence or order and is desirous of appealing against the same, or unless the Court shall for any special reason see fit to grant such copy free of expense.

Act not to take effect in Presidency Towns or Straits Settlement.

441. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure of the Chief Commissioner of Police, the Police Magistrates, or the Police of the Towns of Calcutta, Madras, and Bombay and the Settlement of Prince of Wales' Island, Singapore, and Malacca, except so far as this Act expressly provides for the same.

Saving of jurisdiction and procedure of Heads of Villages, Village Police Officers, &c.

442. Nothing in this Act shall be held to alter or affect the jurisdiction, duties, or procedure of landholders specially empowered according to law in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of the Heads of Villages in the Presidency of Fort Saint George, nor to alter or affect the jurisdiction, duties, or procedure of Village Police Officers in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of any Officer duly Authorized and appointed under the laws in force in the Presidencies of Fort Saint George and Bombay respectively, for the trial of petty offences in Military aazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively.

Sudder Court to make general rules for regulating proceedings, &c.

443. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal Courts subordinate to it, and also to frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it shall think necessary that a form should be provided, for keeping all books, entries, and accounts to be kept in such Courts, and for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts, and from time to time to alter any such rule or form, provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed by the Court under this Section shall be published in the *Official Gazette*.

Procedure of this Act to be followed in miscellaneous criminal cases and Proceedings.

444. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which, after the passing of this Act, shall be instituted in any Court.

Commencement and operation of Act.

445.* This Act shall come into operation in the Presidencies of Bengal, Madras, and Bombay on the 1st day of January 1862, but shall not take effect in any part of the territories in British India not subject to the General Regulations of Bengal, Madras, or Bombay, *until the same shall be extended thereto by the Governor-General of India in Council or by the local Government to which such territory is subordinate, and until such extension shall have been notified in the Gazette.*

APPENDIX OF FORMS.

A

FORM OF SUMMONS *(Section 69.)*

To A. B., of

Whereas your attendance is necessary to answer to a charge of *(state shortly the offence charged)*: You are hereby required to appear in person or by authorized Agent, as the case may be, before the [Magistrate] of on the day of Herein fail not.

(Signature and Seal.)

Dated the day of

B.

FORM OF WARRANT *(Section 76.)*

To *(name and designation of the person or persons who are to execute the warrant).*

Whereas of stands charged with the offence of *(state the offence).* You are hereby directed to apprehend the said and to produce him before me. Herein fail not.

(Signature and Seal.)

This warrant may be endorsed as follows:—

If the said shall give bail, himself in the sum of with one surety in the sum of (or two sureties each in the sum of) to appear before me on the day of he may be released.

Signature.

C.

FORM OF WARRANT OF COMMITMENT.

(Section 222.)

To Jailor of

Whereas of is charged with *(state the offence in respect of which the prisoner is charged; and the authority of the committing Officer)*: You are hereby required to receive the said into your custody in the said Jail of and him there safely to keep until he shall be thence delivered by due course of law.

Dated the day

D.

FORM OF BOND TO KEEP THE PEACE.

(Section 284.)

Whereas I inhabitant of have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of my making default therein, I bind myself to forfeit to her Majesty the sum of Rupees,

Dated

* *Vide* Act XV. 1862, Sec. 1.

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said that he shall not commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of Rupees.

Dated

E.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

(*Sections* 158 and 232.)

I of . do hereby bind myself to appear at in the Court of at o'clock on the day of next, and then and there to prosecute (or, as the case may be, to prosecute and give evidence or to give evidence) in the matter of a charge of against one A. B ; and in case of my making defualt herein, I bind myself to forfeit to Her Majesty the sum of Rupees.

F

FORM OF BOND FOR BEHAVIOUR (*Section* 300.)

Whereas I inhabitant have been called to enter into a bond to be of good behaviour to Her Majesty the Queen, and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term and in case of my making default therein I bind myself to forfeit to Her Majesty the sum of Rupees.

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said. that he shall be of good behaviour to Her Majesty and to all her subjects during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of Rupees.

ACT No. XXVII. OF 1861.

(Received the assent of the Governor-General on the 7th Sept. 1861.)

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1. Land vested absolutely in Government.
2. Appointment of Officers to superintend management of land, &c.
3. Administration of Civil and Criminal Justice.
4. Appeal.
5. Revision and confirmation of sentences.
6. Penalty for Master anchoring his vessel for the purpose of landing of passengers or goods at unauthorized Port.
7. Penalty for landing at unauthorized Port.
8. Exception from provisions of last two Sections.
9. Master of vessel to deliver to Conservator list of crew, &c. Penalty.
10. Penalty for any person landing without license.
11. Penalty for landing goods without license.
12. Penalty for Master omitting to furnish the Conservator with a list of his crew &c. before the departure of his vessel.
13. Inspection of vessels. Penalty.
14. Penalty for receiving on board a convict for the purpose of escape.
15. License for residing at the Settlement.
16. Conditions of license to be determined by Governor-General in Council.
17. Imposition and recovery of forfeitures.

An Act to regulate the administration of Port Blair and other Settlement in the Andaman Islands.

WHEREAS the Settlement of Port Blair including the territory thereto attached, within the Andaman Group of Islands, is occupied as a Penal Settlement for convicts sentenced by the Courts of British India to transportation, and it is expedient to provide for the admission and residence of other persons than convicts within the said Settlement; and whereas it is expedient to provide in like manner for any other Settlement that may be formed in the said Island, as well as for the occupation of land and the general administration of such Settlement; It is enacted as follows :—

Land vested absolutely in Government.

I. The land of the Settlement of Port Blair, and of any other Settlement that may hereafter be found by the Government of India in the Andaman Group of Islands, is vested absolutely in Her Majesty the Queen, and such land shall not be sold, leased, or otherwise transferred to or be acquired by any person except by and through an instrument in writing executed by the Superintendent of the Settlement or such other authority as the Governor-General of India in Council may appoint, and it shall be competent to such Superintendent or other authority to eject any person from any land occupied or in any way possessed by such person which he shall not have acquired in the manner prescribed in this Section.

Appointment of Officers to superintend management of land, &c.

II. The Governor-General of India in council may appoint one or more Officers to superintend the management of the land of the Settlement of port Blair and of any other Settlement as aforesaid, and the realization of any Revenue, rent, or other dues that may be payable on account of such land, and any Officer so appointed shall, in the matters aforesaid, be subject to the direction and control of the Governor-General of India in Council and be guided by such instructions as the Governor-General of India in Council may from time to time issue.

Administration of Civil and Criminal Justice.

III. The Administration of Civil and Criminal justice within the Settlement of Port Blair and of any other Settlement as aforesaid shall be vested in such Officer or Officers, as the Governor-General of India in Council may for the purpose of tribunals of first instance or of reference and appeal, appoint and the Officer or Officers so appointed shall in matters aforesaid be subject to the direction and control of the Governor-General of India in Council, and be guided by such instructions as the Governor-General of India in Council may from time to time issue.

Appeal.

IV. It shall be lawful for the Governor-General of India in Council to declare in what cases the order, Judgment, or sentence made by any Officer appointed as provided in the last preceding Section shall be final, and to direct that from any such order, Judgment, or sentence an appeal may be heard and decided by any Court established within British India and beyond the limits of the Settlement of Port Blair.

Revision and confirmation of sentences.

V. It shall be lawful to the Governor-General of India in Council to empower any Court, established within British India and beyond the limits of the said Andaman Group of Islands, to confirm and modify or reverse any order or sentence passed in any criminal trial by any Officer within such Settlement, and no sentence of death passed by any Officer within any Settlement in the said Group of Islands shall be carried into execution until it be confirmed by the Governor-General of India in Council, or by such Court established within British India as aforesaid, as the Governor-General of India in Council may for that purpose appoint.

Penalty for Master anchoring his vessel for the purpose of landing of passengers or goods at unauthorized Port.

VI. It shall not be lawful for the Master or Commander of any vessel to land or to anchor such vessel for the purpose of landing any person or any goods or things at any place on the Coast of the Settlement of Port Blair or any other Settlement as aforesaid, except at such place as may be declared a Port under the provisions of Act XXII of 1855 *(for the regulation of Ports and Port-dues)*; and any Master or Commander so offending shall forfeit and pay a sum not exceeding One Thousand Rupees.

Penalty for landing at unauthorized Port.

VII. Any person who shall land from any vessel or boat at any place on the Coast of the Settlement of Port Blair or of any other Settlement as aforesaid, except at such place as shall be within the limits of any Port declared under the provisions of the said Act XXII of 1855, shall forfeit and pay a sum not exceeding Five Hundred Rupees, and any goods or thing landed from any vessel or boat, except within such limits, shall be liable to be seized by any person in the employment of Government within the Settlement, and may be confiscated if the Superintendent or other Officer aforesaid shall so direct.

Exception from provisions of last two Sections.

VIII. The provisions of the last two preceding Sections shall not apply to any vessel or boat the property of Her Majesty, or used for any public purpose, or to any person, goods, or thing landed from such vessel or boat, nor in any other case when the Sections aforesaid shall have been infringed from stress of weather or other unavoidable circumstances.

IX. The Master or Commander of any vessel, which shall enter any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, shall be bound to deliver to the Conservator of the Port, within twenty-four hours from the time of entering, a list of the crew and passengers on board of such vessel as well as a Manifest of the Cargo carried by such vessel; and any Master or Commander failing to deliver such list and Manifest within such period, shall forfeit and pay a sum not exceeding Five Hundred Rupees.

Master of vessel to deliver to Conservator list of crew, &c.

Penalty.

X. No person shall land within the limits of any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, except under a license granted as hereinafter provided or under the written permission of the Conservator of the Port or of the Superintendent of the Settlement or other authority appointed as provided in Section I of this Act, and any person so landing without such license or permission shall forfeit and pay a sum not exceeding Five Hundred Rupees.

Penalty for any person landing without license.

XI. No goods or other thing shall be landed within the limits of any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, except under the written permission of the Conservator of the Port or other Officer appointed on that behalf; and any goods or thing landed without such permission shall be liable to be seized by any person in the employment of Government within the Settlement, and may be confiscated if the Superintendent or other authority aforesaid shall so direct.

Penalty for landing goods without license.

XII. Every Master or Commander of a vessel shall, twenty-four hours at least before the departure of such vessel from any Port of the Settlement of Port Blair, or of any other Settlement as aforesaid, furnish to the Conservator of such Port, a list of the crew and other persons who are about to sale in such vessel, specially designating any person (if any) who shall not have arrived at the Settlement in such vessel; and every Master or Commander who shall fail to furnish such list shall forfeit and pay a sum not exceeding One Thousand Rupees. If any such Master or Commander shall, after furnishing the list herein mentioned, take or receive on board his vessel any person not mentioned or included in such list, for the purpose of taking him from such Port, without forthwith informing the Conservator of such Port of the name of such person, he shall be liable to forfeit and pay a sum of Five Hundred Rupees for every such person so taken or received on board.

Penalty for Master omitting to furnish the Conservator with a list of his crew &c. before the departure of his vessel.

XIII. Every Master or Commander of any vessel anchored in, or about to depart from, any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, shall be bound, on the requisition of the Conservator of the Port or other person acting under the instructions of the Superintendent of the Port or other Officer as aforesaid, to permit such Conservator or other person to inspect such vessel and to produce before such Conservator or other person any person who may be on board of such vessel. If any Master or Commander shall fail to conform to any of the provisions of this Section, he shall forfeit and pay a sum not exceeding One Thousand Rupees.

Inspection of vessels.

XIV. If the Master or Commander of any vessel or other person shall wilfully receive on board such vessel or on any boat any convict undergoing a sentence of transportation, for the purpose of conveying the same from the Settlement of Port Blair or any other Settlement as aforesaid without the knowledge or authority of the Superintendent or other Officer aforesaid, such Master or Commander or other person shall forfeit and pay a sum not exceeding One Thousand Rupees, besides being liable to any punishment that may be awarded on conviction of any offence committed by him under the provisions of the Indian Penal Code.

Penalty for receiving on board a convict for the purpose of escape.

XV. No person shall reside at the Settlement of Port Blair or any other Settlement as aforesaid beyond the period of one month, or after the departure of the vessel by which he was conveyed to such Settlement, except he shall hold a license granted by some person empowered in that behalf by the Governor-General of India in Council; and any person who shall so reside without such license shall forfeit and pay a sum not exceeding Five Hundred Rupees. Such person may be required to remove himself from the Settlement in which he shall be within such time as the Superintendent or other Officer appointed as provided in Section I of this Act shall direct, and if he shall fail so to do he shall forfeit and pay a sum not exceeding Five Hundred Rupees and may further be shipped and removed from the Settlement by any vessel that the Superintendent or other Officer aforesaid shall appoint for that purpose.

License for residing at the Settlement.

XVI. The Governor-General of India in Council may determine the conditions upon which a license to reside in the Settlement of Port Blair or any other Settlement as aforesaid shall be granted. The conditions so determined shall be inserted in the license: and if the holder of any such license shall fail to conform to, or shall infringe, any of the conditions therein specified, he shall forfeit

Conditions of license to be determined by Governor-General in Council.

and pay any sum specified therein as a forfeiture payable for any neglect or infringement of such conditions. Such person may also be required to remove himself from the Settlement in which he shall be, and his failure so to do may be enforced as provided in the last preceding Section.

Imposition and recovery of forfeitures.

XVII. The forfeitures incurred under this Act may be imposed by any Officer exercising the authority of a Magistrate within the Settlement of Port Blair, and the payment of the sum may be enforced by distress and sale of the goods and chattels of the offender, or in the case of the Master or Commander of a vessel, by the distress and sale of such vessel and the tackle, apparel, and furniture thereof: and in default of the recovery of any sum forfeited and payable under this Act, the offender may be imprisoned in the Civil Jail for a period of one month if such sum be not sooner paid.

ACT No. XXX OF 1861.

(Received the assent of the Governor-General on the 7th September 1861.)

An Act to enable the Bengal Military Orphan Society to register under Act XXI of 1860 (for the Registration of Literary, Scientific, and Charitable Societies.)

WHEREAS it is expedient to enable the Bengal Military Orphan Society to register under Act XXI of 1860 (*for the Registration of Literary, Scientific, and Charitable Societies*); It is enacted as follows :—

In the case of the Bengal Military Orphan Society, the assent to the Society being registered under the said Act XXI of 1860 of three-fifths of the Members present personally or by proxy at some general meeting specially convened, shall not be required, but the said Bengal Military Orphan Society may be registered under the said Act by the Governor, Deputy Governor and Managers thereof for the time being, without such assent, anything in the said Act to the contrary notwithstanding, and such Registration shall have the same effect as if it had been made in conformity with the provisions of the said Act XXI of 1860.

ACT No. XXXI OF 1861. *

(Received the assent of the Governor-General on the 7th September 1861.)

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1. Unlicensed manufacturing &c., of Saltpetre prohibited.
2. Unlicensed manufacturer prohibited from separating &c. salt educed in the manufacture of Saltpetre.
3. Duration and form of license.
4. Fees for licenses.
5. Salt educed in the manufacture of Saltpetre liable to full Government Duty.
6. Penalty.
7. Composition of Duties.
8. Manufactories in the North-Western Provinces to be within Customs jurisdiction. Acts XIV of 1843 and XXXVI of 1855 applicable.
9. In other parts of India to which this Act is extended, who are to exercise the powers conferred by the above Acts on Collectors &c.
10. Local Government may frame rules.
11. To what substances &c. this Act is applicable.
12. Levy of forfeitures and penalties by distress.
13. Cancellation of license and destruction of works of offenders.
14. Procedure until return is made to warrant of distress.
15. Imprisonment if distress not sufficient.
16. Levy of fines from European British Subjects.
17. Act not to affect provisions of other laws relating to licenses.
18. Commencement and operation of Act.

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* *Vide* Act XXXIII. of 1867.

An Act to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof.

WHEREAS it is expedient to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof; It is enacted as follows:—

Unlicensed manufacturing &c. of Saltpetre prohibited.

I. From the time when this Act shall come into operation it shall not be lawful for any person in the North-Western Provinces of the Presidency of Bengal, or in any other part of the British territories in India to which this Act shall be extended in the manner hereinafter provided, to manufacture or refine Saltpetre, or to separate or purify any Salt which may be educed in the process of manufacturing or refining Saltpetre, except under a license from the local Government. The license may be granted either for the manufacture of Saltpetre alone, or for the manufacture and refining of Saltpetre and the separation and purification of Salt educed in the process of such manufacturing and refining.

Unlicensed manufacturer prohibited from separating &c., Salt educed in the manufacture of Saltpetre.

II. It shall not be lawful for any manufacturer of Saltpetre, not being licensed to manufacture and refine Saltpetre and to separate and purify the Salt educed in the process of the manufacture of Saltpetre, to separate any Salt from any earth or other substance yielding Salt.

Duration and form of license.

III. Every license granted under this Act shall have effect for one year from the date of such license and contain the name of the proprietor of the manufactory or manufactory and refinery of Saltpetre licensed, and of the locality of such manufactory or refinery.

Fees for licenses.

IV. For every license to manufacture Saltpetre there shall be charged a fee not exceeding two Rupees, and for every license to manufacture and refine Saltpetre and to separate and purify Salt in the process of such manufacture and refining, a fee not exceeding One Hundred Rupees. The local Government shall within the limits aforesaid fix the amount of the fee to be paid for such licenses respectively.

Salt educed in the manufacture of Saltpetre liable to full Government Duty.

V. The Salt educed in the process of manufacturing or refining Saltpetre by any person licensed to separate and purify Salt as aforesaid (whether the same shall be purified or not) shall be liable to the full Government Duty on Salt in the Presidency or place in which such Salt is separated, educed, or purified, and such Duty shall be levied, on or before such Salt is removed from the place of manufacture.

Penalty.

VI. If any person shall manufacture or refine Saltpetre or separate or purify any Salt educed in the process of manufacturing or refining the same, without a license under this Act, or being licensed only to Manufacture Saltpetre, shall separate any Salt in the manufacture thereof, or being licensed to manufacture and refine Saltpetre, shall (except as provided in the next Section) allow any Salt separated in the manufacture or refinement of Saltpetre, to be removed from the place of manufacture or refinery without the full amount of Government Duty thereon being first paid, he shall be liable to a fine of Five Hundred Rupees, and on non-payment thereof to imprisonment with or without hard labor for a period not exceeding six months.*

Composition of Duties.

VII. It shall be lawful for the local Government to compound with any person licensed under this Act to manufacture and refine Saltpetre and to separate and purify Salt educed in the process of such manufacturing and refining, for the Duty payable on the Salt estimated to be separated by such person. The composition shall be made for one year only, and may be annually renewed, and shall be in such form, and subject to such provisions and pecuniary penalties, as the local Government shall prescribe. Such provisions and penalty shall be expressed in such license, and the person licensed shall sign a bond embodying such provisions and penalties, and binding him to the fulfilment of all conditions of such license.

Manufactories in the North-Western Provinces to be within Customs jurisdiction. Acts XIV of 1843 and XXXVI of 1855 applicable.

VIII. Every manufactory of Saltpetre in the North-Western Provinces licensed under this Act, and a space not exceeding one hundred yards around such manufactory if the manufactory be also a refinery of Saltpetre, and not exceeding fifty yards if the manufactory be licensed for the manufacture of Saltpetre only, to be fixed by the local Government under Section III of Act XIV of 1843 (*for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*) shall be included in the Customs jurisdiction of the said Provinces; and the provisions of the said Act XIV of 1843 and of Act XXXVI of 1855 (*to empower Officers of Customs and Land Revenue to search houses and other enclosed place for contraband Salt in the North-Western Provinces*) shall apply to Salt manufactured, separated, or purified contrary to the provisions of this Act and to such Customs jurisdiction,

* See Act XXXIII. of 1867.

In other parts of India to which this Act is extended, who are to exercise the powers conferred by the above Acts on Collectors &c.

IX. In other parts of the British territories in India to which this Act shall be extended in the manner hereinafter provided, the powers conferred by the said Acts XIV of 1843 and XXXVI of 1855 on Collectors and other Officers of Customs and Police Officers respectively, may be exercised by the Magistrates and Police Officers (not being under the grade of a Jemadar or Head Officer of a Police Station) in their respective Districts.

Local Government may frame rules.

X. It shall be lawful for the local Government of the North-Western Provinces and of any other Presidency or place to which this Act shall be extended as hereinafter provided, to frame rules, which shall not be contrary to the Provisions of this Act, for securing the Duty payable on Salt separated or purified under licenses to manufacture and refine Saltpetre and to separate and purify Salt educed in manufacturing and refining the same, for compositions under Section VII of this Act, and for the removal of Salt for which composition has been made, and otherwise to give effect to this Act. Such rules shall be published in the *Official Gazette* of such local Government, and shall have the same force and effect as if they were contained in this Act.

To what substances, &c., this Act is applicable.

XI. The provisions of this Act, wherever it may be in force, shall apply to the manufacture of Russee, Sujjee, and all other substances manufactured from saline earth, and of Kharee Noon, or Glauber's Salt, and every other form of Sulphate of Soda, and to the works at which any such substance is manufactured.

Levy of forfeitures and penalties by distress.

XII. All forfeitures or penalties imposed under the authority of this Act shall be recoverable by any Magistrate of Police, or by the Magistrate or other Officer exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above named Officers.

Cancellation of license and destruction of works of offenders.

XIII. When any penalty is awarded for the breach of the conditions of any license under this Act, or against the holder of any license for any offence under this Act, the local Government may cancel such license. The Officer who convicts the offender may also, on the application of the Commissioner of Customs or of the Collector of Customs within whose jurisdiction the offence is committed, or other Officer authorized in that behalf by the local Government, order the works of such offender at which such offence was committed, to be destroyed.

Procedure until return is made to warrant of distress.

XIV. In case any penalty awarded under this Act not be forthwith paid, the Officer by whom such penalty is awarded may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if distress not sufficient.

XV. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender provided he is not a European British Subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed Fifty Rupees and for any term not exceeding four calendar months when the amount shall not exceed One Hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British Subjects.

XVI. If the offender shall be a European British Subject, the Magistrate shall record the facts, and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Act not to affect provisions of other laws relating to licenses.

XVII. Nothing in this Act shall be construed to alter or affect the provisions of any other law or Regulation relating to licenses.

Commencement and operation of Act.

XVIII. This Act shall take effect in the North-Western Provinces on the 1st day of the December 1861, and may be extended to any other parts of the British territories in India, by an order of the Governor-General of India in Council to be published in the *Official Gazette*.

THE

UNREPEALED ACTS

OF THE

LEGISLATIVE COUNCILS

OF

INDIA AND BENGAL.

BY JAMES W. FURRELL.

VOL. II. PART II.

THE UNREPEALED ACTS

OF THE

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1862—1869.

CALCUTTA:
PUBLISHED BY MESSRS. W. NEWMAN AND CO.

THE LEGISLATIVE ACTS

OF THE

GOVERNOR-GENERAL OF INDIA

IN COUNCIL.

ACT NO. III. OF 1862.

(Received the assent of the Governor-General on the 28th February.)

An Act to amend the law relating to the use of a Government Seal.

Preamble.

Whereas it is expedient to adapt the law relating to the use of a Government Seal to the present form of the Government in India; It is enacted as follows:—

What Seal to be used instead of the Seal of the East India Company.

Whenever it is required by any Regulation of a local Government, or by any Act of the Governor-General of India in Council, that the Seal of the East India Company shall be affixed on behalf or by the authority of the Government to any instrument or document, it shall be lawful, if the Seal is to be affixed on behalf or by the authority of a local Government, to affix in lieu of the Seal of the East India Company a Seal bearing the designation of such local Government, or, if the Seal is to be affixed on behalf or by the authority of the Government of India, a Seal bearing the inscription "Government of India;" and such Instrument or document so sealed shall to all intents and purposes be as valid and effectual as if the Seal so used had been that of the East India Company.

ACT NO. IV. OF 1862.

(Received the assent of the Governor-General on the 28th February.)

1. Repeals Act VI. of 1839, and also partially Acts XXI. of 1854 and XXVII. of 1855.

2. Present and future Proprietors continued a body corporate by the name of the Bank of Bengal.

3. Property of the Bank vested in the body corporate, subject to existing liabilities.—Pending suits not to abate.

4. The Bank may sue and be sued by its Corporate name, and use a common seal, and acquire and transfer property.

5. Capital of the Bank to consist of 10,700 shares of 1,000 Rupees each, divisible into half and quarter shares.

6. Directors may, after notice, increase the Capital to the extent of not more than 30,000 shares of 1,000 Rupees each.

7. A Proprietor may convert his shares, or part of them, into consolidated stock, and a subscriber for new Capital may subscribe for shares or stock, or both.

8. Stock transferable in sums of not less than 250 Rupees.

9. Certificates of shares and receipts for stock to be signed by not less than three Directors, and may be demanded singly or in the aggregate.

10. Shares and Stock to be deemed personal estate.

11. Shares transferable by endorsement, and Stock by Deed of Transfer, executed and registered. Transfers of shares or stock liable to duty under the Stamp Law.

12. Registered Proprietors alone to be members of the body corporate.—Bank not bound or affected by Trusts.

13. Business to be managed by nine Directors, of whom three shall be appointed and removeable by the Governor-General in Council, and the remainder by vote of the Proprietors.

14. Present Directors continued.

15. Two of the six elective Directors to go out of office in rotation every year, and two other Directors to be elected in their stead.

16. Clause 1. No person eligible as Director, who possesses less than twelve thousand Rupees in shares or stock of the Bank, or who is connected with any other Bank in the Town or Suburbs.

Clause 2. No two persons, connected with the same mercantile Firm, qualified to serve as Directors at the same time.

17. In case of death, resignation, or disqualification of any elective Director, a fresh election to be made within 15 days by a special meeting of the Proprietors.

18. At general meetings, all matters to be decided by majority of votes. Proprietor of transferred share or stock not to vote, unless transfer be registered six months before time of meeting.

19. Scale of Votes. Of joint Proprietors, the Proprietor whose name is first in the Register is alone to vote and to receive notices.

20. Governor-General in Council may vote by proxy on all matters, except the election or removal of the elective Directors.

21. Proxies, general or special, may be given.

22. Directors to choose a President, in whose absence the senior Director in rotation shall be Vice-President for the time. President or Vice-President to have a casting vote.

23. The Secretary or Deputy Secretary may endorse and transfer Government Securities &c., draw and accept Bills of Exchange &c., and sign accounts and receipts.

24. The Seal of the Bank to be used only in presence of three Directors, who shall sign in token of their presence :— Such signing to be independent of the signing of any witnesses.

25. Directors may appoint and remove Officers and fix their salaries.

26. The Secretary, Deputy Secretary. Head Accountant, and Khazanchee prohibited from engaging in any other commercial business, and required to give Security.

27. Specification of the business of the Bank.

28. Bank may draw Bills of Exchange and grant letters of credit payable out of India for the use of its constituents in the Agency Department.

29. Bank may take over the business of the General Treasury and undertake the management of the Government Currency Notes. Directors may from time to time arrange with the Governor-General in Council as to terms of remuneration, and as to the examination and audit of the accounts and affairs of the Bank.

30. Directors not to make any loan or advance on shares or stock of the Bank, or on security of immoveable property.

31. Books to be balanced half-yearly, and a statement of the balance to be transmitted to the Government of India, who may call for any information or documents.

32. Directors to make, half-yearly, a dividend of the profits, after setting apart portion thereof for the reserve fund.

33. A statement of affairs to be laid before the Proprietors at a general meeting to be held on the 1st Monday in every August.

34. An Auditor or Auditors may be elected annually.

35. Three Directors or ten Proprietors may convene a special general meeting upon giving 15 days' notice of its purpose.

36. With sanction, directors may establish Branch Banks and provide for the transaction of the business of the local Government Treasuries, and management of the Government Currency Notes.

37. Directors may take over the capital and business of any other Bank by granting to its Proprietors shares in the Bank of Bengal, and for that purpose may increase the capital stock of the Bank.

38. Bank may withhold payment of dividends to any Proprietor who is indebted to the Bank until payment of the debt, and, after notice, may sell the shares or stock of such Proprietor for liquidation of the debt.

39. Bank not bound to recognise legal representatives of deceased Proprietors, unless they shall have obtained Probate or Letters of Administration or Certificates under Act XXVII. of 1860.

40. Power of Directors and Proprietors to make, alter, and rescind Bye-laws, &c., subject to the approval of the Governor-General in Council.

41. Construction of Act.
42. Act to come into operation on 1st March 1862.

An Act for regulating the Bank of Bengal.

Preamble.

Whereas the Governor-General of India in Council has, pursuant to the provisions of Act VI. of 1839 (*relating to the Bank of Bengal*) given twelve months due notice to the Bank of Bengal that the provisions of the said Act, as regards the power of the Bank to issue Promissory Notes under Section XXXI. of that Act, would be modified as hereinafter appears, and it is expedient that the provisions of the said Act, and of Act XXI. of 1854, (*to amend the Law relating to the several Banks of Bengal, Madras, and Bombay*), and of Act XXVII. of 1855 (*to enable the Banks of Bengal, Madras, and Bombay to transact certain business in respect of Government Securities and Shares in the said Banks*) as regards the said Bank of Bengal, should be re-enacted with certain amendments and modifications hereafter contained; It is hereby enacted as follows :—

I. Repealed by Act XVII. of 1870.

Present Corporation continued.

II. From and after the coming into operation of this Act and notwithstanding the repeal of the said Act VI. of 1839, the present and future Proprietors of the capital stock of the Bank of Bengal shall continue to be a body corporate by the name of the Bank of Bengal with perpetual succession, and shall continue to possess and enjoy all the rights, privileges, and immunities incident by law to a corporation aggregate.

Property of the Bank.

III. All property and securities for property, claims, and demands whatsoever, now vested in or held by the said Bank of Bengal under and by virtue of the said Act VI. of 1839, shall, from and after the coming into operation of this Act, be vested and continued in the said Bank of Bengal as and being a body corporate under and by virtue of this Act as aforesaid, and the said Bank of Bengal as such body corporate shall be subject to all debts, demands, claims, and liabilities outstanding against the said Bank at the time of this Act so coming into operation, and no suit or proceeding at law or in Equity then pending shall cease or abate in consequence of the repeal of the said Act VI. of 1839, or of the continuance of the said Bank by virtue of this Act.

Bank may sue and be sued by corporate name, and may hold and transfer property.

IV. The said Bank so continued as aforesaid shall and may sue and be sued by its corporate name aforesaid, and shall and may have and use such common seal as the Directors of the said Bank shall from time to time appoint, and shall be competent as such body corporate to acquire and hold, either absolutely or conditionally for a term or in perpetuity, any description of property whatever, and to transfer and convey the same.

Capital of the Bank.

V. The existing capital of the said Bank now consisting of 2,675 shares of Co.'s Rs. 4,000 each, divisible into half and quarter shares, shall continue to be the capital of the said Bank; but shall, from and after the coming into operation of this Act, consist of 10,700 shares of Rupees 1,000 each, divisible into half and quarter shares, and such share shall be subject to such increase as next hereinafter mentioned.

Increase of the Capital.

VI. It shall be lawful for the Directors of the said Bank for the time being, from time to time, as and when they shall deem it expedient so to do, and on such previous notification as they may deem sufficient in that behalf, to increase the said capital, and for that purpose to make such orders and directors for the opening of subscriptions towards such increase of capital by the Proprietors of the Bank for the time being as to them may seem fit, and also to allow to the said Proprietors such period to fill up the subscription as to them the said Directors shall seem meet, and also to prescribe in what manner and form the said Proprietors shall subscribe and pay into the said Bank the proportions of new capital which such Proprietors may respectively desire to subscribe, and also to make such orders and directions as to them the said Directors may seem fit, for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up by Proprietors for the time being, in the manner and form so prescribed. Provided always, that the capital of the said Bank, including any increase therein that may be made under Section XXXVII. of this Act, shall not in the whole exceed 30,000 shares of 1,000 Rupees each.

Consolidated Stock.

VII. It shall be lawful for any Proprietor of any 1,000 Rupees share or shares or of any half or quarter share or shares in the existing capital or in the new capital so to be created as aforesaid, at any time and from time to time, to surrender such share or shares or half or quarter share or shares or any of them to the Directors of the Bank for the time being, and to demand and receive from the Bank, in lieu thereof, consolidated stock to the like amount as represented by the share or shares or half or quarter share or shares so surrendered, and in like manner any Proprietor, or other person subscribing for any portion of

the new or increased capital under the provisions hereinbefore contained, may at his option subscribe for shares or for consolidated stock, or partly for shares and partly for stock.

Consolidated stock how transferable.

VIII. The consolidated stock aforesaid shall be transferable (subject to the provisions hereinafter contained with respect to transfers) in any amount or sum not less than 250 Rupees, and the holder of any share or shares or half or quarter share or shares, or of any consolidated stock, shall be a Proprietor of and interested in the capital of the Bank to the extent of the amount of the shares or half or quarter shares or stock so held by him.

Certificate of shares and receipts for stock.

IX. A certificate, signed by three Directors of the said Bank, shall be delivered to the Proprietor of any share or half or quater shares of the capital of the said Bank, upon demand made by such Proprietor , and any Proprietor of more than one such share or half or quarter share may at his option demand a certificate for each, or one certificate for all his shares : and a receipt shall in like manner on demand be delivered to the Proprietor of any stock, and any Proprietor of stock may, at his option, demand one receipt for the whole of the stock, or separate receipts for any portions of the stock so held by him.

Shares and stock to be personal estate.

X. The proportion of the capital of the said Bank held by any Proprietor, whether held as shares or as consolidated stock, shall be of the nature of personal estate of such Proprietor.

Transfer of shares and stock.

XI. Shares in the capital shall be transferable by endorsement to be made on the certificates thereof respectively, under the hand of the Proprietor or his attorney duly authorized, which endorsement shall specify the name of the person or persons to whom the said transfer shall be made ; and consolidated stock shall be transferable by a deed of transfer executed by the Proprietor or his duly authorized attorney, and in the form set forth in Schedule A hereto annexed.* Provided always, that no endorsement of a share certificate, or deed of transfer of stock, shall be effectual to transfer any interest in the share or stock, until such endorsement or deed of transfer shall have been registered at the Bank of Bengal, and such registration shall have been noted on such endorsement or deed of transfer, under the hand of an Officer appointed for that purpose by the Directors of the said Bank. * * * *

Corporation to consist of registered proprietors only.

XII. The registered Proprietors for the time being of the shares and stock into which the capital of the said Bank shall be divided, and no other persons, shall be members of the body corporate hereby continued, and the Bank shall not be bound or affected by notice of any trust to which any share or stock may be subject in the hands of the registered Proprietor thereof ; and when any share or stock is vested in more than one registered Proprietor, such Proprietos shall, as between themselves and the Bank, be considered as joint tenants with benefit of survivorship. The shares and stock registered in the name of the Governor-General in Council shall be deemed to belong to the Secretary of State for India in Council.

Directors.

XIII. The business of the said Bank shall be managed by nine Directors, of whom (so long as the Government of India shall hold shares or stock in the said Bank, or so long as any such arrangement or agreement with the Government as in Section XXIX. of this Act mentioned, which has been already entered into or shall hereafter be entered into, shall remain in force) three shall be appointed and removeable by the Governor-General of India in Council ; and the remaining Directors, and, in case the Government shall cease to hold shares or stock in the said Bank and no such arrangement or agreement as aforesaid shall remain in force, all the Directors, shall be elected and be removeable by vote of a general meeting of the Proprietors.

Present Directors continued.

XIV. The persons who at the time of this Act coming into operation shall be Directors of the said Bank, shall continue to be Directors of the said Bank, subject to removal as aforesaid and to the provisions hereinafter contained.

Two elective Directors to go out yearly by rotation.

XV. Two of the six Directors elected and to be elected by the said Proprietors shall in rotation go out of office on the second Monday in the month of December in every year, on which day a general meeting of Proprietors shall be held for the election of two Directors in their stead. Provided always, that any Directors going out by rotation as aforesaid shall not be re-eligible at the election which takes place thereupon. Provided also, that the rotation existing at the time of this Act coming into operation shall continue to be observed.

Disqualifications to serve as an elective Director.

XVI. *Clause* 1.—No person shall be eligible or qualified to serve as a Director by election of the Proprietors, who shall not be a Proprietor, in his own right and unincumbered, of shares or stock to the amount of twelve thousand Rupees at the least of the capital of the said Bank, or who shall be a Director or Agent or

*. For the Schedule referred to *see* Act VI. of 1862.

†. The words omitted from this Section have been repealed by Act XIV. of 1870.

Manager of any other Bank or Branch Bank within the town or suburbs of Calcutta, or who shall be a partner of, or managing agent for, or shall hold a power of procuration from any such Director, Agent, or Manager.

Clause 2.—No two persons who shall be partners of the same mercantile firm, or one of whom shall be the general agent of, or shall hold a power of procuration from, a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as Directors at the same time.

No two partners, etc., of the same firm to serve as Directors at the same time.

XVII. In case of the death, resignation, or absence from Calcutta for more than three calendar months, or disqualification under the preceding Section, or removal as aforesaid, of any Director elected or to be elected by the said proprietors, the other Director shall within fifteen days after such death, removal or resignation call a special general meeting of the Proprietors for the purpose of choosing a successor to the Director so dead, resigned, absent disqualified, or removed, and such successor shall come into the same place in the rotation above-mentioned, in which the deceased, removed, absent or disqualified Director was.

Vacancies among the elective Directors how to be filled up.

XVIII. At general meetings of the Proprietors, whether ordinary or special, every election and other matter submitted to the meeting shall be decided by a majority of votes, and no person shall be allowed to vote at any such meeting in respect of any share or stock acquired by transfer, unless such transfer shall have been completed and registered six months at the least before the time of such meeting.

At general meetings all matters to be decided by a majority of votes.

XIX. At all such general meetings, the Proprietors shall vote according to the following scale:—

Scale of votes.

4 Shares of Rupees 1,000 each, or consolidated Stock amounting to Rs. 4,000, shall entitle to...					...	1	Vote.
20 Shares or consolidated stock	ditto	Rs.	20,000	...	...	2	Votes.
40 „	ditto	ditto	„	40,000	...	3	„
60 „	ditto	ditto	„	60,000	...	4	„
80 „	ditto	ditto	„	80,000	...	5	„
120 „	ditto	ditto	„	1,20,000	...	6	„
160 „	ditto	ditto	„	1,60,000	...	7	„

and no Proprietor shall be entitled to more than seven votes. Provided also, that when any share or stock shall be held by joint registered Proprietors, the Proprietor whose name shall appear first in the Register as one of the holders of such share or stock, shall alone be entitled to vote in respect thereof and to receive notices as if he were sole Proprietor thereof.

XX. It shall be lawful for the Governor-General of India in Council (so long as the Government shall hold shares or stock in the said Bank) to give a proxy in writing, signed by one of the Secretaries to Government, to any person whom the Governor-General in Council may appoint to attend any general meeting of the Proprietors, and the holder of such proxy shall be entitled to give seven votes upon all matters or questions that may be submitted to such meeting, excepting upon the election or removal of such Directors as are elected by the said Proprietors.

Government proxy.

XXI. Any Proprietor entitled to vote at any general meeting may give a proxy in writing, either general or special, under his hand or the hand of his attorney duly authorized, to any other Proprietor, and such proxy shall be produced at the time of voting and shall entitle the person to whom it is given, to vote on such matters as shall be authorized by the tenor of such proxy. Proxies existing and in force at the time of this Act coming into operation shall continue in force, any thing herein contained notwithstanding.

Proprietors' Proxies.

XXII. At the first meeting of the Directors in every year, they shall choose a President from among themselves, and whenever the office of President shall become vacant, they shall at their next meeting choose a successor for the remainder of the current year, and during any vacancy, or in the absence of the President, the senior Director in rotation shall be Vice-President for the time, and such President or Vice-President shall have the casting vote in all cases of an equal division of votes at meetings either of Directors or Proprietors.

Directors to choose a President, who is to have a casting vote.

XXIII. The persons for the time being holding the office of Secretary and Treasurer or of Secretary alone, or of Deputy Secretary, of the said Bank, are hereby severally empowered, for and on behalf of the Bank, to endorse and transfer Government securities, Railway shares, certificates, and Bonded Warehouse warrants, and other documents of title in goods standing in the name of the Bank and to draw, accept, and endorse Bills of Exchange, Bank Post Bills, and letters, of credit, in the current and authorized business of the Bank, and to sign all other accounts, receipts, and documents, connected with such business.

Accounts, receipts, and other documents of the Bank, by whom to be signed.

Seal to be used only in presence of three Directors, who shall all sign.

XXIV. The Seal of the said Bank shall not be affixed to any instrument except in the presence of three Directors, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness, and, unless so signed by three Directors, such instrument shall be of no validity.

Appointment, removal, and remuneration of Officers, &c.

XXV. The Directors for the time being shall have power to appoint such officers, clerks, and servants, as may be necessary to conduct the business of the said Bank, and to remove any officer, clerk, or servant of the said Bank, and to fix the salaries of such officers, clerks, and servants.

Certain officers prohibited from engaging in other commercial business and required to give security.

XXVI. No person who shall hold the office of Secretary and Treasurer, Deputy Secretary, Head accountant, or Khazanchee, of the said Bank, shall directly or indirectly engage in any other commercial business, either on his own occount individually, or jointly with others, or as agent for any other persons, or act as a broker; and every person appointed to any one or more of the said offices shall give such security to the Directors for the faithful discharge of his duty as they shall think sufficient. Provided, that the security to be given by any Secretary or Treasurer shall be for not less than fifty thousand Rupees.

Business of the Bank.

XXVII. The business of the said Bank of Bengal shall consist in lending on Government Securities, and shares in Railways the interest whereon shall have been guaranteed by Government, and on goods, wares, and merchandize not of a perishable kind, in drawing, discounting, buying, and selling Bills of exchange, and other negotiable securities payable in Her Majesty's Indian territories and not elsewhere; in granting Post Bills payable in Her Majesty's Indian territories to order or otherwise than to bearer on demand; in buying and selling gold and silver bullion; in making investments in securities of the Government of India or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of Railways guaranteed by the Government of India; in receiving deposits; in opening cash accounts and Credits; in transacting pecuniary Agency business on commission; and in selling property or securities deposited in the Bank as security for loans and not redeemed, or property or securities recovered by the Bank in satisfaction of debts and claims.

Bank may draw Bills of Exchange &c. for the use of its constituents in the Agency Department.

XXVIII. In addition to drawing, buying, and selling Bills of Exchange and granting Post Bills payable in India, it shall be lawful for the Bank to draw Bills of Exchange and grant Letters of Credit payable out of India, for the use of their Constituents in the Agency Department, and to buy Bills of Exchange payaole out of India, for the purpose of remitting funds to meet such Bills or Letters of Credit.

Bank may taken over the business carried on at the General Treasury, and undertake the management of the Government Paper Currency.

XXIX. It shall also be lawful for the said Bank through their Directors, under any arrangement or agreement with the Governor-General of India in Council on behalf of the Secretary of State for India in Council, to take over and transact any part of the business of or hitherto carried on at the General Treasury (or in the Department of the Accountant General at Fort William), and to superintend, manage, and become agents for the issue, payment, and exchange of Government Currency Notes under Act XIX. of 1861 (*to provide for a Government Paper Currency*) or any Act which may hereafter be passed in relation to the Paper Currency of the Government of India, and to pay the amount of such Government Currency Notes in silver to the holders thereof on presentation and demand, and the Directors of the said Bank shall have power from time to time to arrange and settle with the Governor-General in Council as to the terms of remuneration on which such business in relation to the General Treasury, Accountant General's Department, and Government Paper Currency shall be undertaken by the Bank, and also as to the examination and audit from time to time of the accounts and affairs of the Bank on behalf of the Governor-General of India in Council.

Directors not to make loans on shares, &c.

XXX. The Directors of the said Bank shall not make any loan or advance on shares or consolidated stock of the said Bank, nor on mortgage, or in any other manner on the security of any lands, houses, or immoveable property or the title-deeds relating thereto.

Books to be balanced half yearly.

XXXI. The Directors of the said Bank shall cause the books of the said Bank to be balanced on the 30th day of June and the 31st day of December in every year, or at such other periods as shall from time to time be determined by the Directors, and a settlement of the balance at every such period, signed by a majority of the Directors, shall be forthwith transmitted to one of the Secretaries to the Government of India; and the Governor-General of India in Council (so long as Government shall hold shares or stock in the said Bank, or so long as any such arrangement with the Government as aforesaid, which has already been or shall hereafter be entered into, shall remain in fore,) shall at all times be entitled to require of the said Directors any information touching the affairs of the Bank and the production of any documents of the said Bank, and the said Directors shall comply with every such requisition.

XXXII. An account of the profits of the said Bank shall be taken half-yearly on the 1st day of January and the 1st day of July in every year, or at such other periods as may from time to time be determined on by the Directors, and a dividend thereof shall be made as soon thereafter as conveniently may be, and the amount of such dividend shall be determined by the Directors of the said Bank during the six calendar months preceding the day up to which such half-yearly account shall be taken. Provided, that the said Directors shall, in their discretion, have power to set apart such portion of the said profits as thay may deem expedient to be added to the reserve fund against contingencies.

Dividends to be determined half-yearly.

XXXIII. On the 1st Monday of the month of August in every year, a general meeting of the Proprietors of the capital of the said Bank shall be held, at which the Directors of the said Bank shall submit to the said Proprietors a statement of affairs of the said Bank made up to the preceding 30th of June, or to such other day as may be determined on by the Directors.

General meeting of Proprietors.

XXXIV. At the first general meeting of the Proprietors of the Bank held after the coming of this Act into operation, one or more Auditors for the current year may be elected by a majority of votes at such meeting, and in like manner an Auditor may be elected at the first general meeting of the Proprietors in each current year.

Election of one or more Auditors.

XXXV. Any three of the Directors or any ten Proprietors of the said Bank may at any time convene a special general meeting of the Proprietors upon giving 15 days' previous notice of such meeting, and of the purpose for which the same shall be convened as well to the Directors of the said Bank for the time being, as also by public advertisement in the *Calcutta Gazette.*

Convening of special general meeting.

XXXVI. It shall be lawful for the Directors of the said Bank, with the sanction of the Governor-General of India in Council, from time to time to form business agencies and to establish Branch Banks at such places as they may deem advantageous to the interests of the Bank, with full power to the said Directors to appoint during pleasure such agents, clerks, and servants, and either with or without local Boards of Direction or Management, and under such regulations, restrictions and conditions as to them may seem fit, and from time to time to vary such regulations, restrictions, and conditions, and the said Agents and other Officers shall give such security for their good behaviour as the Directors may require: and it shall also be lawful for the Directors from time to time, under any arrangements or agreements with the Governor-General in Council on behalf of the Secretary of State in Council, to provide for the conduct and transaction by any such Branch Bank or Banks of any part of the business of or hitherto conducted at the local Government Treasuries, and for the superintendence, management, and agency of the local issue, payment, and exchange of any Goverment Currency Notes. Provided that such arrangements and all regulations and directions given by the said Directors to the Agents or Managers of such Branch Banks, touching the management thereof or the description of business to be undertaken thereb , shall no contain anything inconsistent with or contrary to the provisions of this Act, or of any Bye-laws, Regulations, or orders which may be in force for the time being under the 40th Section of this Act.

Establishment of Branch Banks.

XXXVII. It shall be lawful for the Directors of the said Bank, from time to time, to enter into negotiations for, and to purchase and take over, the capital, assets, and business of any other Bank within Her Majesty's Indian territories, of which the capital is divided into shares, and to grant and allot to the Shareholders or Proprietors in such Bank, in full of their respective right, title, and interest in such capital, assets, and business, a sufficient number of shares in the capital stock of the said Bank of Bengal (which number shall be determined by the Directors), and for that purpose to increase the capital stock of the said Bank by the issue of such number of shares as may be so determined on. The Shareholders or Proprietors of the purchased Bank to whom such new shares shall be allotted, shall be Proprietors of the Bank of Bengal, and be in all respects in the same position as if they had respectively subscribed and paid for the shares so allotted to them. Provided always, that the business so purchased shall, after the purchase, be carried on by the said Bank of Bengal with, and subject to, the several restrictions contained in this Act.

Bank may take over capital and business of any other Bank. and for that purpose increase its own capital.

XXXVIII. If any of the said Proprietors shall become indebted to the said Bank, it shall be lawful for the said Bank to withhold payment of the dividends on the share or shares or consolidated stock of such Proprietor registered as his own property, and not as held in trust or as executor or administrator, until payment of such debt, and to apply such dividends towards payment thereof; and after demand and default of payment, and notice in that behalf given either to such Proprietor or his constituted agent, or by public advertisment in the *Calcutta Gazette*, it shall be lawful for the said Bank to refuse registration of the transfer of any such

Proprietor becoming indebted to the Bank.

share or shares or stock of such Proprietor, until payment of such debt : and if the same shall remain unpaid for the space of six calendar months after such notice, to advertise for public sale, and to sell, such share or shares or stock or so many or so much as may be necessary, and to apply the proceeds thereof towards payment of such debt, with interest at the rate of six per cent. per annum, paying over the surplus, if any, to such Proprietor or to his lawful representative.

Who is to be recognised as the representative of a deceased Proprietor.

XXXIX. Where by the death of any Proprietor his share or shares or stock shall devolve on his legal representative, the Bank shall not be bound to recognize any legal representative of such deceased Proprietor other than a person who has taken out Probate to the Will or Letters of Administration to the estate of such deceased Proprietor from the Supreme Court of Judicature at Fort William, or who has obtained a certificate in respect of the estate of such deceased Proprietor under Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), describing such shares or stock, from a Court of competent jurisdiction within the Presidency of Fort William.

Directors may make, alter, and rescind Bye-laws, &c.

XL. It shall be lawful for the Directors for the time being of the said Bank to make and pass Bye-laws, Regulations, and orders for the good Government, and in reference to the mode of conducting the business of the Bank, and such Regulations and orders from time to time to modify, rescind, and vary, and it shall further be lawful for the Proprietors of the said Bank at any general meeting, whether ordinary or special, to pass resolutions and frame, and from time to time rescind and vary, Bye-laws and Rules for the direction of the affairs of the Bank, and the same shall be binding on the Directors and Officers and on the Proprietors of the Bank, until rescinded or varied at any subsequent general meeting. Provided always, that no Bye-laws, Regulation, or order, or alteration or rescission of any Bye-law, Regulation, or order, whether passed by the Directors or by the Proprietors at a general meeting, shall be of any validity except in so far as the same shall be consistent with the provisions of this Act, and shall be approved by the Governor-General of India in Council, such approval to be signified in writing under the hand of one of the Secretaries to the Government of India.

Construction.

XLI. In the construction of this Act, words in the singular number shall include the plural, words in the plural shall include the singular, and words in the masculine gender shall include the feminine, except where the contrary appears by the context.

XLII. Repealed by Act XIV. of 1870.

ACT NO. V. OF 1862.

(Received the assent of the Governor-General on the 28th February.)

1. On and after 1st March 1862, all sums payable by or to the Governments of India and Bengal to be payable at the Bank of Bengal instead of at the General Treasury at Calcutta.

2. Promissory Notes and Securities heretofore required to be presented at the General Treasury of Fort William to be presented at the Bank of Bengal.

3. After notice given, all sums payable by or to the Governments of Madras and Bombay at the General Treasuries of those Governments, to be payable at the Banks of Madras and Bombay respectively.

4. Promissory Notes and Securities heretofore presented at the General Treasuries at Madras and Bombay, to be presented at the Banks of Madras and Bombay respectively.

5. Securities not heretofore required to be presented at the General Treasuries, need not be presented at the Banks.

An Act to provide for the payment at the Banks of Bengal, Madras, and Bombay respectively, of moneys payable at the General Treasuries of Calcutta, Madras, and Bombay.

Preamble.

Whereas, under the Provisions of Act XXIV. of 1861 (*to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries*), the Bank of Bengal has entered into an agreement with the Secretary of State for India in

Council through the Governor-General of India in Council, that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William, as consists in receiving and paying money on behalf of the supreme Government and the Government of Bengal, shall be carried on and transacted by the said Bank, subject to the provisions of the said agreement, and to such orders and directions with regard to receipts and payments as may from time to time be given to the said Bank by the Governor-General in Council, or any of the Officers of the Government of India authorized in that behalf:

And whereas the Governor-General in Council has given notice in the *Calcutta Gazette* that the Treasury of the Secretary of State for India in Council and of Her Majesty's Indian Government at Calcutta shall, from and after the 1st day of March 1862, be established at the Bank of Bengal:

And whereas the Bank of Madras and the Bank of Bombay are in treaty with the Governor in Council of Madras and the Governor in Council of Bombay respectively, for the purpose of entering into similar agreements, and it is probable that such agreements will be shortly executed, and that similar notice to that hereinbefore mentioned will be given by the Governors in Council of Madras and Bombay in regard to the Banks of Madras and Bombay:

And whereas divers promissory notes and negotiable securities and other obligations for the payment of money, made by or on behalf of the Secretary of State for India in Council or by the Governor-General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council respectively, on behalf of the East India Company and of the Secretary of State for India in Council, are made payable at the General Treasury of Fort William in Bengal, the General Treasury at Madras, and the General Treasury at Bombay respectively:

And whereas divers other securities and other obligations are made payable to the Secretary of State for India in Council or to the said Governor-General in Council, or to the Governors in Council of Madras or of Bombay at the said General Treasuries of Fort William in Bengal, Fort St. George, and Bombay respectively; It is therefore enacted as follows:—

On and after 1st March 1862, all sums payable by or to Government to be payable at the Bank of Bengal instead of at the General Treasury at Calcutta.

I. On and after the 1st day of March 1862, and until the expiration of fourteen days after notice shall be given in the *Calcutta Gazette* by the Governor-General of India in Council that the Treasury of the Government will be no longer held at the Bank of Bengal, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor-General of India in Council or the Government of Bengal on behalf of the Secretary of state for India in Council, at the General Treasury of Fort William in Bengal, shall be payable by or to the Secretary of State in Council or by or to the Governor-General of India in Council or the Government of Bengal respectively on behalf of the Secretary of State in Council, at the Bank of Bengal instead of at the General Treasury at Calcutta.

Presentment of promissory notes, &c., at the Bank of Bengal.

II. Whenever presentment of any promissory note, security, or obligation for payment or for any other purpose at the General Treasury of Fort William in Bengal would, before the said 1st day of March 1862, have been necessary or sufficient, presentment for such purpose at the Bank of Bengal shall be necessary or sufficient, as the case may be, on and after the said 1st day of March 1862, and until the expiration of fourteen days after such notice as in the 1st Section mentioned shall have been given.

Payment at the Banks of Madras and Bombay of sums payable by or to Government at the General Treasuries at Madras and Bombay.

III. If the Governors in Council of Madras and of Bombay respectively shall give notice, in the *Government Gazettes* of their Presidencies respectively, that the Banks of Madras and Bombay respectively have entered into agreements or arrangements with the Secretary of State for India in Council through the said Governors in Council, for the purposes mentioned in the Preamble of this Act, under the provisions of the said Act XXIV. of 1861, and that from and after a date to be specified in such notice, the Treasury of the Secretary of State for India in Council, and of Her Majesty's Indian Government at Madras and Bombay respectively, shall be established at the Banks of Madras and Bombay respectively, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor of Madras in Council or the Governor of Bombay in Council on behalf of the Secretary of State for India in Council, at the General Treasury at Madras, or at the General Treasury at Bombay respectively, shall from and after the date specified in such notice, and until the expiration of fourteen days after notice shall have been given by the said Governors in Council respectively that the Treasury of the Government will be no longer held at those Banks respectively, be payable by or to the Secretary of State in Council, or by or to the Governor of Madras in Council, or by or to the Governor of Bombay in Council, on behalf of the Secretary of State in Council, at the Bank of Madras or the Bank of

Bombay respectively, instead of the General Treasury at Madras or the General Treasury at Bombay.

Presentment of promissory notes, etc, at the Banks of Madras and Bombay.

IV. In such case, whenever presentment of any promissory note, security, or obligation for payment or for any other purpose, at the General Treasuries at Madras or Bombay respectively, would have been necessary or sufficient, if such notice had not been given and this Act had not been passed, presentment for such purpose, at the Banks of Madras and Bombay respectively, shall be necessary or sufficient, as the case may be, on and after the date specified in such notice by the Governors in Council of Madras and Bombay respectively, and until the expiration of fourteen days after such notice as aforesaid that the said Treasury will be no longer held at those Banks respectively shall have been given.

Proviso as to presentment at the several Banks.

V. Nothing in this Act shall render necessary the presentment at the Banks of Bengal, Madras, and Bombay respectively of any security or other obligation which it would not have been necessary to present at the General Treasuries of Bengal, Madras, and Bombay respectively, if this Act had not been passsed.

ACT. No. VI. OF 1862.

(Received the assent of the Governor-General on the 12th March.)

An Act to annex a Schedule to Act IV. of 1862 (for regulating the Bank of Bengal.)

Preamble.

Whereas the Schedule referred to in Section XI. of Act IV. of 1862 *(for regulating the Bank of Bengal)* as Schedule A thereto annexed, has not been annexed thereto: and it is expedient to annex such Schedule to the said Act; It is enacted as follows;—

Schedule A of Act IV. of 1862.

The Schedule hereto annexed, and marked A, shall be deemed and taken to be the Schedule referred to in Section XI. of the said Act IV. of 1862 as Schedule A thereto annexed, and to be annexed to and to form part of the said Act.

SCHEDULE A.

I A. B. of do hereby transfer to C. D. of consolidated stock of the Bank of Bengal to the amount of Rupees standing in my name, to hold unto the said C. D. his executors, administrators, representatives, or assigns, subject to the conditions on which I hold the same at the time of the execution hereof.

Dated the day of

ACT. No. VII. OF 1862.

(Received the assent of the Governor-General on the 12th March,)

An Act to amend Act XLVI. of 1860 *(to authorize and regulate the Emigration of Native Laborers to the French Colonies.)*

Preamble.

Whereas since the passing of Act XLVI. of 1860 *(to authorize and regulate the Emigration of Native Laborers to the French Colonies)* the Convention therein recited between Her Majesty the Queen of Great Britain and Ireland and his Majesty the Emperor of the French has been varied in the following particulars: that is to say, by substituting for Article XXVI. in the said Convention as so recited in the said Act, the following Articles:

"ARTICLE XXVI.

The present Convention shall begin to take effect on the 1st of July 1862; its duration is fixed at three years and a half. It shall remain in full force, if notice

for its termination be not given in the course of the month of July of the third year, and then notice can be given only in the course of the month of July of each succeeding year.

In case of such notice being given, it shall cease eighteen months afterwards.

Nevertheless the Governor-General of British India in Council shall, in conformity with the Act of the 19th of September 1856, relative to immigration to British Colonies, have the power to suspend at any time emigration to any one or more of the French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the Emigrants immediately upon their arrival or during their residence therein or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage.

In case, however, the power thus reserved to the Governor-General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention, if they should think proper to do so.

But in the event of the determination of the present Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favor of the said Indian subjects until they shall either have been sent back to their own country, or have renounced their right to a return passage to India."

And also by the addition of the two following Articles which were not comprised in the Convention or recited in the said Act, that is to say—

"ARTICLE XXVII.

The present Convention shall be ratified, and the ratifications shall be exchanged at Paries in four weeks, or sooner if possible.

ADDITIONAL ARTICLE.

His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African Emigrants should be introduced into the Island of Re-union, that Colony has, since last year, had to obtain laborers from India and China; and Her Britannic Majesty having, by Convention signed on the 25th of July 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Re-union to recruit six thousand laborers in Her Indian possessions, it is agreed that the Convention of this date shall take effect forthwith with regard to the said Colony of Re-union.

The present Additional Article shall have the same force and validity as if it were inserted word for word in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention."

And whereas the said Convention, with such alterations and additions as aforesaid, together with such additional Article, has been duly signed, ratified, and confirmed:

It is declared and enacted as follows :—

All the provisions of Act XLVI. of 1860 *(to authorize and regulate the Emigration of Native Laborers to the French Colonies)* shall be and remain in full force notwithstanding that the Convention therein recited had been so altered and added to before the same was signed or ratified as aforesaid : and all such provisions, in so far as the same relate to the Convention recited in the said Act, shall be deemed to apply, and shall apply, to the said Convention as signed and ratified as aforesaid together with the additional Article thereof.

Act XLVI. of 1860 to be applicable to the Convention as signed and ratified.

ACT NO. VIII. OF 1862.

(Received the assent of the Governor-General on the 27th March.)

1. The King of Oude exempted from the jurisdiction of the Criminal Courts except in regard to offences punishable with death under the Penal Code.

2. Police not to arrest the King without a warrant, nor for any purpose to enter the dwelling-house of the King, except in the presence and with the sanction of the Agent.

3. In cases not excepted, the Governor-General in Council on report of the Agent, may issue a Commission for the trial of the offence. Such Commission not to pass sentence.

4. No writ or process of any Civil, Revenue, or Criminal Court shall be issued against the person or property of the King without the consent of Governor-General in Council.

5. The King exempted from appearance as a witness before any Court or Commissioner.

6. The evidence of the King to be taken by interrogatories to be transmitted to the Agent.

7. The King's affidavit to be taken and sworn before the Agent.

8. No other person but the Agent, entitled to be present when the King is being examined or sworn.

9. Examinations and affidavits of the King to be admissible in evidence and subject to objections.

10. Act not to continue in force after the death of the King.

An Act to protect the personal dignity of His Majesty the King of Oude.

Preamble.

Whereas it is expedient, with a view to protect the personal dignity of the King of Oude, in accordance with the promise made to His Majesty on the part of the British Government, that His said Majesty should be partially exempted from the jurisdiction of the Civil, Revenue, and Criminal Courts; it is enacted as follows:—

King of Oude exempted from jurisdiction of the Criminal Courts except for capital offences.

I. His Majesty the King of Oude is hereby declared to be, and is, exempt from the jurisdiction of the Criminal Courts, except in regard to offences punishable with death under the Indian Penal Code. Except for such offences, no Criminal Court or Magistrate shall enquire into any complaint, or issue any process, against His said Majesty.

Police not to arrest the King without warrant, nor to enter the dwelling-house of the King except in the presence of the Agent.

II. No Police Officer or other person shall arrest His said Majesty without warrant, and no Police Officer or other person, whether charged with the execution of a warrant or not, shall, for the purpose of arresting any person or searching for anything, enter into or remain in any house in which His Majesty may at the time be residing, except in the presence and with the sanction of the Officer appointed to be Agent with His Majesty on the part of the British Government.

Issue of Commission for the trial of other than capital offences.

III. If any complaint be made or information preferred against His said Majesty for any offence other than the offences excepted in Section I. of this Act, the Officer appointed to be Agent with His said Majesty may enquire into the case and make a report thereon to the Governor-General in Council, and the Governor-General in Council, on receipt of any such report, may issue a Commission for the trial of such offence, and may vest the said Commission with any of the powers vested in any Court by the Code of Criminal Procedure. Provided that, in case of conviction the said Commission shall not pass sentence, but shall report its judgment to the Governor-General in Council, who shall thereupon give such directions in respect to the custody of the person of His said Majesty or the disposal of His property, as the exigency of the case may seem to require.

IV. Repealed by Act XIII. 1868.

King exempted from appearing as a witness.

V. His said Majesty shall not be required to appear personally as a witness in any Court, or before any Commissioner appointed by any Court, to be examined or make affidavit when his evidence or affidavit is required in any Civil, Revenue, or Criminal suit or proceeding.

Mode of taking King's evidence.

VI. When the evidence of His Majesty is required in any such suit or proceeding, the Court or the party requiring the same shall cause to be prepared interrogatories in writing for the examination of His said Majesty. If the case is one in which any other party in such suit or proceeding would, by law, have a right to cross-examine, such party shall be at liberty to prepare cross-interrogatories. The interrogatories and cross-interrogatories (if any) shall be transmitted to the Officer appointed to be Agent with His said Majesty, who shall exhibit the same to His said Majesty and take down in writing His Majesty's answers thereto given on solemn affirmation. The interrogatories and cross-interrogatories (if any), with the answers thereto, shall be returned to the Court before whom the suit or proceeding is pending, together with a certificate, from the said Officer appointed to be Agent, of the answers of His said Majesty having been duly taken.

Mode of taking King's affidavit.

VII. When any affidavit is required to be sworn by His said Majesty in any suit or proceeding, such affidavit shall be taken and sworn before the said Officer appointed to be Agent, who shall return such affidavit, with a certificate of its having been duly sworn, to the Court or Officer before whom the same is to be used.

VIII. Except with the consent of His said Majesty, no person, other than the said Officer appointed to be Agent, shall be entitled to be present when His said Majesty is being examined on interrogatories or sworn to any affidavit under the provisions of this Act. Examinations to be taken in private.

IX. The answers to interrogatories or affidavit of His said Majesty taken and sworn under the provisions of this Act shall be admissible in evidence, and subject to the same objections as if such answers or affidavit had been taken or sworn in open Court or under a Commission. Examination, etc. under the Act, admissible in evidence.

X. This Act shall not continue in force after the death of His said Majesty. Duration of Act.

ACT No. XII OF 1862.

(Received the assent of the Governor General on the 23rd April.)

An Act to repeal Act II, of 1835 so far as it relates to the Provinces of Arracan and Tenasserim.

Whereas the Provinces of Arracan and Tenasserim have been united with the Provinces of Pegu and Martaban in one general administration under a chief Commissioner of British Burmah, and it is no longer expedient that the functionaries who are or may be appointed in the said Provinces should be under the control and superintendence of the Court of Sudder Dewanny and Nizamut Adawlut, or of the Board of Revenue; It is enacted as follows :— Preamble.

I. So much of Act II. of 1835 as relates to the said Provinces of Arracan and Tenasserim is hereby repealed: provided that any appeals or other matters relating to the said Provinces, and now pending before the Court of Sudder Dewanny and Nizamut Adawlut, or before the Board of Revenue, shall be heard and determined as if this Act had not been passed. Repeal of Act II. of 1835 as regards Arracan and Tenasserim. Proviso.

ACT NO. XIV. OF 1862.

(Received the assent of the Governor-General on the 23rd April.)

An Act to amend Act XIV. of 1859 (to provide for the limitation of suits.)

Whereas it is expedient to postpone the operation of so much of Act XIV. of 1859 as limits the period for the commencement of suits for the amount of bills for articles sold by retail where the cause of action arose before the passing of that Act; It is enacted as follows :— Preamble.

I. All suits that may now be pending, or that shall be instituted before the 1st of January 1865, to recover the amount of bills for any articles sold by retail, shall, in all cases in which the cause of action arose before the passing of the said Act XIV. of 1859, be tried and determined as if that Act had not been passed.

ACT NO. XVII. OF 1862.

(Received the assent of the Governor-General on the 1st May.)

1. *Regulations and Acts set forth in the Schedule, so far as they provide for the punishment of offences, repealed from 1st January 1862.*

2. In places in which the Code of Criminal Procedure came into operation on 1st January 1862, the Regulations and Acts in the Schedule, which are not repealed by the preceding Section, repealed from that date to the extent specified in the Schedule.

3. In places in which the Code did not come into operation on 1st January 1862, those Regulations and Acts repealed, from the date of the extension of the Code to such places.

4. Offences committed before 1st January 1862, in places in which the Code is in operation, to be investigated and tried under its provisions; but person convicted not to be liable to any other punishment that he would have been liable to before that date, nor to be deprived of previous rights of appeal or reference.

5. In places to which the Code shall be extended after the passing of this Act, offences committed before such extension to be similarly investigated and tried.

6. Sentences passed for offences committed before the Code came into operation, not to be quashed or set aside by reason only of the new Procedure having been followed. But if the accused has been deprived of any right of appeal or reference, the Sudder Court may call for the proceedings.

7. Act not to affect sentences and orders previously passed under any Regulation or Act.

An Act to repeal certain Regulations and Acts relating to Criminal Law and Procedure.

Preamble

Whereas by Act XLV. of 1860 a Penal Code has been prescribed for British India, and the said Code came into operation on the 1st day of January 1862; and whereas by Act XXV. of 1861 a Code of Procedure is provided for the Courts of Criminal Judicature not established by Royal Charter, and the said Code likewise came into operation on the 1st day of January 1862 in the Presidencies of Bengal, Madras, and Bombay, and was at the same time, or has since been, or hereafter may be, extended to other parts of British India; and whereas it is expedient to repeal, in the manner hereinafter provided, certain Regulations and Acts relating to Criminal Law and Procedure; It is enacted as follows:—

Regulations and Acts providing for the punishment of offences, repealed.

I. The several Regulations and Acts set forth in the Schedule hereunto annexed, so far as they provide for the punishment of offences, shall be held to have been and are hereby repealed from the 1st day of January 1862 in the Presidencies of Bengal, Madras, and Bombay, and in the other parts of British India in which such Regulations and Acts or any of them were in force on the said 1st day of January 1862, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the said 1st day of January 1862.

Exception.

Regulations and Acts not repealed by the last Section, repealed in places where the Code came into operation on 1st January 1862.

II. To the extent expressed in the Schedule annexed to this Act, the Regulations and Acts set forth therein, which are not repealed by the last preceding Section, shall, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the said 1st day of January 1862, be held to have been and are hereby repealed from the said date in the Presidencies of Bengal, Madras, and Bombay, and in the other parts of British India in which such Regulations and Acts or any of them were in force on the said 1st day of January 1862, and in which the said Code of Criminal Procedure came into operation on such date.

Repeal of the same Regulations and Acts in places where the Code did not come into operation on 1st January 1862.

III. To the extent expressed in the Schedule annexed to this Act, the Regulations and Acts set forth therein, which are not repealed by Section I. of this Act, and which were in force on the said 1st day of January 1862 in any part of British India in which the said Code of Criminal Procedure did not come into operation on the said 1st day of January 1862, shall, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the date on which the said Code shall have been or shall hereafter be extended to such part of British India, be held to have been or shall be repealed in such part of British India, from the date on which the Code shall have been or shall be so extended thereto.

Procedure and powers in the investigation and trial of offences committed before 1st January 1862.

IV. In the investigation and trial of offences committed before the said 1st day of January 1862, the Criminal Courts of the several grades, and the Officers of Police, shall, after the passing of this Act, be guided by the provisions of the Code of Criminal Procedure, so far as the same can be applied, wherever the said Code shall be in operation at the time of such investigation or trial; and for the trial and punishment of such offences such Courts shall exercise the jurisdiction and powers vested in them under the said Code of Criminal Procedure. Provided that no person convicted of any such offence shall be liable to any other punishment than that to which he would have been liable had he been convicted of such offence before the said first day of January 1862, and that no such person,

who shall claim the same, shall be deprived of any right of appeal or reference to a Sudder Court which he would have enjoyed had the trial been held under any of the Regulations or Acts hereby repealed.

V. In any part of British India to which the Code of Criminal Procedure shall be extended after the passing of this Act, the said Code shall, subject to the provisions of the last preceding Section, be followed in the investigation and trial of any offences committed before the date of such extension.

Procedure in places to which the Code is extended after the passing of this Act.

VI. No sentence passed before the passing of this Act for any offence which shall have been committed before the 1st day of January 1862 (or whenever the said Code of Criminal Procedure shall not have been extended to any place in British India on the said 1st day of J nuary 1862, then before the date on which the said Code shall have been extended to such place,) shall be liable to be quashed or set aside by reason only of the procedure in the investigation or trial of any such offence having been wholly or in part the procedure provided by the said Code of Criminal Procedure. Provided that, if in any such case it shall appear that the accused party has been deprived of any right of appeal or reference to a Sudder Court, which he would have enjoyed had the trial been held under any of the Regulations or Acts hereby repealed, the Sudder Court or the highest Court of Criminal Jurisdiction may call for the proceedings in the case and pass such order thereon as it may deem just and proper.

Sentences passed for offences committed before 1st January 1862, not to be quashed by reason only of the procedure of the Code having been followed.

VII. Nothing in this Act shall affect any sentence or order passed, or any proceding held, or any act done, previously to the passing of this Act and in accordance with any Act or Regulation repealed by this Act.

Act not to affect certain sentences and orders previously passed.

SCHEDULE OF REGULATIONS AND ACTS REPEALED.*

ACT No. XVIII. OF 1862.

(Received the assent of the Governor-General on the 1st May.)

1. An indictment may be amended on the trial, if person indicted be not prejudiced thereby; after which, the trial may be postponed, or proceeded with before the same or another jury.

2. If, on a trial for criminal breach of trust or for cheating, the evidence shall prove theft, the indictment may be amended.

3. An indictment may be amended, if, on a trial for criminal breach of trust as a clerk or servant, the evidence shall prove theft, or theft as a clerk or servant.

4. Also, if, on a trial for theft, or theft in a building, tent, or vessel, the evidence shall prove dishonest misappropriation of property, or criminal breach of trust.

5. Also, if, on a trial for theft as a clerk or servant, the evidence shall prove dishonest misappropriation of property, or criminal breach of trust.

6. Verdicts and judgments given after amendment to be valid.

7. Records to be drawn up in the amended form of the indictment, without taking notice of the amendment.

8. In indictments for theft, it is sufficient to prove the moving of the property in order to take it dishonestly.

9. In indictments for murder and culpable homicide, it is not necessary to state the means by which death was caused.

10. In indictments for murder, or for abetting or attempting to murder, what averments shall be sufficient.

11. Persons indicted for murder may be acquitted of murder, and convicted of culpable homicide not amounting to murder.

12. Upon an indictment for the murder of a child, jury may find a verdict of concealing or endeavouring to conceal the birth.

13. Indictments for grievous hurt, need not specify the kind of grievous hurt.

14. On indictments for hurt or doing rash acts likely to endanger life, accused not entitled to acquittal on the ground of having caused death or being guilty of culpable homicide.

* For this Schedule see Appendix.

15. Documents referred to in indictments may be described by their general designation, without being set forth in full....

16. Where intent to defraud must be alleged, intent to defraud a particular person need not be alleged or proved.

17. Person charged with an offence, may be convicted of an attempt to commit it.

18. Person indicted for criminal misappropriation, not entitled to acquittal if convicted of theft.

19. Persons indicted for jointly receiving stolen property, may be convicted of separately receiving it.

20. The abettor may be tried as for a substantive offence, either jointly with the principal offender or separately, if the offence itself has been committed.

21. The receiver of stolen property may be indicted and punished, notwithstanding the non-conviction or absence of the principal offender.

22. An indictment may be for several offences in different counts, but the Judge may direct a separate trial on any of those counts.

23. On a trial for theft, if the property be taken at more than three different times, or at intervals of more than six months between the first and last taking, prosecutor to elect to proceed for not more than three takings, all within the said period.

24. In indictments for giving or using false evidence, it is sufficient to set forth the substance of the offence, without setting out any proceeding, or the authority of the Court before which the offence was committed.

25. Coin and Bank or Government Notes may be described simply as money, and the particular species of coin, and amount and number of notes, need not be proved.

26. Absence of circumstances bringing the case within the general exceptions under the Penal Code need not be alleged, but proof of their non-existence may be given by prosecutor, if accused give evidence of their existence.

27. In indictments for defamation, where defence is made under certain exceptions to Section 499 of the Penal Code, good faith to be presumed.

28. Words used in describing offences, to be taken in the sense of the Penal Code.

29. Persons accused of murder or culpable homicide, may be tried by the Supreme Courts, if the death took place within the local limits, or the act causing death be committed wholly or in part within such limits.

30. If an offence be commenced or completed within the local limits of any Supreme Court, the accused may be tried by such Court.

31. Person accused may be tried by the Supreme Court within whose local limits either the act causing the offence was done, or the consequence of the act ensued.

32. Person accused of receiving stolen property may be tried by the Court within whose local limits any part of such offence shall have been committed, or any part of the property shall have been received.

33. Person accused of dishonestly concealing or removing property, may be tried by the Court within or from whose local limits such property shall have been concealed or removed.

34. If an act be committed, or the consequence of an act ensue, on or near the boundaries of the local jurisdiction, it shall be deemed to have been committed or to have ensued within the local limits.

35. Person accused of an offence committed on a journey or voyage, may be tried by the Supreme Court within whose local limits part of such journey or voyage shall have been performed.

36. Person escaping from lawful custody under sentences, or violating any condition of a remission of punishment or of a license to be at large, may be tried by the Supreme Court within or from whose local limits he shall have been apprehended or escaped, or by which he was formerly tried.

37. Person liable to be tried by any Supreme Court under this Act, may be dealt with by any Justice of the Peace.

38. Former conviction or acquittal before a competent Court to be a bar to any subsequent trial or conviction.

39. Sections 10, 12, 13. 14, 15, 16, 18, and 23 of 9th Geo. IV., c. 74 to include any offence punishable under the Penal Code; Section 5 to include murder and culpable homicide; and Section 110 to include offences by which the possession of property is transferred.

40. No indictment to be held insufficient for immaterial errors.

41. A Demurrer or motion to quash an indictment for uncertainty or any formal defect, must be made before the Jury are sworn; whereupon the indictment may be amended and the trial proceeded with.

42. Person accused not entitled to have the trial postponed, but Court may, on sufficient ground, adjourn the trial.

43. Sufficient to state prior conviction or acquittal, in making a plea of autrefois convict or autrefois acquit.

44. Charge of adultery to be instituted only by the husband.

45. A charge of enticing away a married woman not to be instituted, except by the husband or the person in charge of the woman.

46. Indictments under two preceding Sections to be quashed, if it be not proved that the charge was instituted by the husband or person in charge of the woman.

47.—52. Repealed by Act XII. of 1865.

53. Person confined in the House of Correction at the date of the passing of this Act to remain in the custody of the officer in charge and of the keeper, who are to be responsible for them.

54. Act to commence in the Supreme Court of Calcutta from the date of passing.

55. Act to commence in the Supreme Courts of Madras and Bombay from the time of its extension to those Courts, respectively, by the Governments of Fort St. George and Bombay.

56. Except as to offences not punishable under the Penal Code, Act XVI. of 1852 repealed from the time of this Act taking effect in any of the Supreme Courts.

57. Interpretation and construction of Act.

An Act to repeal Act XVI, of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.

Preamble.

Whereas, in consequence of the passing of the Indian Penal Code, many of the provisions of Act XVI. of 1852 *(for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the territories of the East India Company)* have become inapplicable and others require amendment, and it is expedient to repeal the said Act, and, pending the preparation of a Code of Criminal Procedure for Her Majesty's Supreme Courts of Judicature, to re-enact some of the provisions of the said Act, and to make further provision for the administration of Criminal Justice in such Courts; It is enacted as follows :—

An indictment may be amended on the trial, if the accused be not prejudiced thereby.

I. Whenever, on the trial of an indictment for an offence, there shall appear to be a variance between any statement in such indictment and the evidence offered in proof thereof, it shall be lawful for the Court before which the trial shall be had, if it shall consider that by the amendment of the indictment the person indicted will not be prejudiced in his defence on the merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person, both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial if the person indicted apply for a postponement, and ordering the same to be had before the same or another Jury, as such Court shall think reasonable; and after any such amendment, the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences both with respect to the liability of witnesses to be indicted for giving false evidence and otherwise, as if no such variance had occurred. Provided that in any such case, where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the person indicted and his surety or sureties (if any,) in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the person indicted shall be bound to attend to be tried at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and prosecute, or give evidence, at the time and place to which such trial shall be so postponed. Provided also that, when any such trial shall be ordered to be had before another Jury, the Crown and the person indicted shall respectively be entitled to the same challenges as they were respectively entitled to before the first Jury was sworn.

On trial for criminal breach of trust and other offences if the offence proved be theft, the Court may order indictment to be amended.

II. If upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or the offence of cheating and thereby dishonestly inducing the person deceived to deliver property under Section 420 of the said Code, or of Criminal breach of trust as a carrier, wharfinger, or warehouse-keeper under Section 407 of the said Code, evidence shall be given to prove that such person took the property in question in any such man-

ner as to amount to the offence of theft under Section 378 of the said Code, the Court may order the indictment to be amended under the provisions of Section I. of this Act.

So also on trials for criminal breach of trust as a clerk or servant.

III. If, upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, the Court may order the indictment to be amended under the provisions of Section I. of this Act.

And on trials for theft or for theft in a building, tent, or vessel.

IV. If, upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel under Section 380 of the said Code, evidence shall be given to prove that, in respect of the property stated in the indictment, such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, the Court may order the indictment to be amended under the provisions of Section I. of this Act.

Similar power of amendment in trials for theft as a clerk or servant.

V. If, upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the Indian Penal Code, evidence shall be given to prove that such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, in respect of the property stated in the indictment, the Court may order the indictment to be amended under the provisions of Section I. of this Act

Verdicts and judgments' valid after amendments.

VI. Every verdict and Judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the form in which it is after such amendment shall have been made.

Records to be drawn up in amended form, without noticing the amendments.

VII. If it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment is after such amendment shall have been made, without taking any notice of the fact of such amendment having been made.

What shall be sufficient proof of taking in cases of theft.

VIII. In an indictment for theft, the person indicted may be charged with having dishonestly taken the property stated in the indictment out of the possession of the person mentioned therein without that person's consent, and in support of such allegation it shall be sufficient to prove that the person indicted, intending to take dishonestly such property out of the possession of the person mentioned in the indictment, without that person's consent, moved that property in order to such taking.

The means by which the injury was inflicted need not be specified in indictments for murder and for culpable homicide.

IX. In an indictment for murder or culpable homicide not amounting to murder, or for abetting murder or culpable homicide not amounting to murder, or for attempting to commit murder, which shall be preferred after this Act shall come into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused or attempted to be caused.

Form of the indictment in cases of murder.

X. In an indictment for murder, it shall be sufficient to state that the person charged with the offence did murder the deceased by doing an act with the intention of causing the death of a human being, or, as the case may be, by doing an act with the intention of causing such bodily injury to the deceased as the offender knew to be likely to cause the death of the deceased, or by doing an act with the intention of causing bodily injury to some person, and that the bodily injury intended to be inflicted was sufficient in the ordinary course of nature to cause death, or by doing an act knowing it to be so imminently dangerous that it must in all probability cause the death of a human being, or such bodily injury as was likely to cause the death of a human being, and committing such act without any excuse for incurring the risk of causing death or such injury as aforesaid; and in any indictment for abetting murder or for attempting to commit murder, it shall be sufficient to state that the person charged with the offence abetted the murder of the deceased or attempted to murder the deceased, as the case may be.

On a trial for murder, Jury may find the accused guilty of culpable homicide.

XI. Upon an indictment for murder, the Jury may find the person charged with the offence not guilty of murder, but guilty of culpable homicide not amounting to murder.

XII. Upon an indictmet for murder of a child, the Jury may find the person indicted not guilty of murder, but guilty of intentionally concealing or endeavouring to conceal the birth of such child under Section 318 of the Indian Penal Code, and the person so found guilty shall be liable to be punished under the said Section of the said Code.

On a trial for murder of a child, Jury may find the accused guilty of concealing or of endeavouring to conceal, the birth of a child.

XIII. It shall not be necessary, in an indictment for voluntarily causing grievous hurt, to specify the particular kind of grievous hurt.

Not necessary to specify the particular kind of grievous hurt.

XIV. Upon an indictment for voluntarily causing grievous hurt or for voluntarily causing hurt to any person, or for an offence under Sections 336, 337, or 338 of the Indian Penal Code, the person indicted shall not be entitled to be acquitted upon the ground that the hurt caused the death of the person injured, or that the person indicted was guilty of culpable homicide.

Provision for cases of trial for causing grievous hurt and other similar offences.

XV. In an indictment in which it shall be necessary to mention any instrument or document, or to make an averment or allegation respecting any instrument or document, it shall be sufficient to describe such instrument or document by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac simile* thereof, or otherwise describing the same or the value thereof.

How documents may be referred to in indictments.

XVI. In an indictment in which it shall be necessary to allege an intent to defraud, it shall not be necessary to allege or prove an intent to defraud any particular person, but it shall be sufficient to allege and prove an intent to defraud.

Intent to defraud a particular person need not be alleged or proved.

XVII. If, on the trial of any person charged with any offence, it shall appear to the Jury upon the evidence that the person charged did not complete the offence charged, but was guilty of an offence within the meaning of Section 511 of the Indian Penal Code by attempting to commit such offence, or to cause such offence to be committed, and in such attempt doing an Act towards the commission of such offence, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the person accused is not guilty of the offence charged, but is guilty of an attempt to commit the same within the meaning of Section 511 of the Indian Penal Code, and the offender so found guilty shall be liable to be punished in the same manner as if he had been convicted upon an indictment framed under the said Section for attempting to commit the particular offence charged in the indictment, and no person so tried as herein lastly mentioned, shall be liable to be afterwards prosecuted for an attempt to commit the offence for which he was so tried.

Person charged with on offence may be convicted of an attempt to commit it.

XVIII. If, upon the trial of any person indicted for criminal misappropriation of property, it shall be proved that he was guilty of committing theft of such property, he shall not by reason thereof be entitled to be acquitted of the offence charged against him.

Person indicted for criminal misappropriation may be convicted of theft.

XIX. If, upon the trial of two or more persons indicted for jointly receiving stolen property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the Jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

Persons accused of jointly receiving, may be convicted of separately receiving.

XX. A person may be indicted and punished for abetting an offence which has been committed in consequence of the abetment, notwithstanding the person who committed the offence shall not have been indicted or found guilty, or shall not be in custody or amenable to justice, and every abettor of an offence may be indicted, tried, and punished for the abetment as a substantive offence, and may be tried either jointly with the principal offender or separately, and punished by any of Her Majesty's Supreme Courts of Judicature which would have power to try the principal offender, or which would have power to try the abettor if he had committed the offence himself, either in the place in which he is guilty of the abetment, or in the place in which any act shall have been committed in pursuance of the abetment.

An abettor may be indicted in the absence of the principal.

XXI. A person may be indicted and punished for dishonestly receiving or retaining stolen property, notwithstanding the person by whose offence the possession of such property shall have been transferred, or who shall have criminally misappropriated such property or committed criminal breach of trust in respect thereof, shall not have been found guilty of such offence, or shall not be in custody or amenable to justice.

A receiver of stolen property may be indicted in the absence of the principal.

XXII. It shall be lawful to insert several counts in the same indictment against the same person for different offences. But the Judge before whom the the person indicted shall be tried, may direct that any one or more of the counts shall be treated as a distinct indictment or indictments, and that the person indicted shall be tried thereupon in the same manner as if such count or counts had been in separate and distinct indictments.

Several counts may be inserted in one indictment against the same person.

If the property appear to have been taken at different times, prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

XXIII. If, upon the trial of an indictment for theft, it shall appear that the property alleged in the indictment was taken or moved at different times, the prosecutor shall not by reason thereof be required to elect upon which taking or moving he will proceed, unless it shall appear that there were more than three takings or movings, or that more than the space of six calendar months elapsed between the first and the last of such takings or movings, and in either of such last mentioned cases, the prosecutor shall be required to elect to proceed for such number of takings or movings, not exceeding three, as shall appear to have taken place within the period of six calendar months from the first to the last of such takings or movings.

Form of the indictment for giving or fabricating false evidence, &c.

XXIV. In an indictment for giving or fabricating false evidence, or for using or attempting to use false or fabricated evidence, or for any offence which by the Indian Penal Code is declared to be punishable in the same manner as the offence of intentionally giving false evidence, or for abetting or attempting to commit any of the offences aforesaid, it shall be sufficient to set forth the substance of the offence charged, without setting out any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

Coin and Bank or Government Notes may be described simply as money.

XXV. In an indictment in which it shall be necessary to make any averment as to any money, or any note of any Bank, or any note of Government payable on demand, or which by any law is or shall be declared to be a legal tender, it shall be sufficient to describe such money or note simply as money, without specifying any particular coin or Bank or other note, and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any such note as aforesaid, although the particular species of coin of which such amount was composed, or the amount, number, or other particulars of the note, shall not be proved; and, in cases of obtaining money or any such note or notes as aforesaid by cheating, by proof that the offender obtained any piece or pieces of coin, or any such note or notes, or any portion thereof, or of the value thereof, by cheating, although such piece or pieces of coin or note or notes may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person or persons, and such part shall have been returned accordingly.

Absence of general exceptions under the Penal Code to be assumed.

XXVI. It shall not be necessary to allege in an indictment any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come, within any of the general exceptions contained in Chapter IV. of the Indian Penal Code, or within the exceptions contained in Section 136, Section 300, Section 323, Section 324, Section 325, Section 326, Section 375, or Section 499 of the said Code, but every charge shall be understood to assume the absence of all such circumstances; and it shall not be necessary on the part of the prosecutor to prove at the trial the absence of such circumstances in the first instance; but the person indicted shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

Evidence as to general exception.

Good faith to be presumed in certain cases.

XXVII. In proving the existence of circumstances as a defence under the 2nd, 3rd, 5th, 6th, 7th, 8th, 9th, or 10th exception to Section 499 of the Indian Penal Code, good faith shall be presumed, unless the contrary appear.

Words in indictments to be taken in the sense of the Penal Code.

XXVIII. In every indictment, words used in describing an offence, shall be deemed to have been used in the sense attached to them by the Indian Penal Code.

Jurisdiction in cases of murder or culpable homicide, if the act which caused the death, or the death itself, took place within the local limits.

XXIX. Any person accused of murder, or of culpable homicide not amounting to murder, may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the act which shall have caused the death shall have been committed wholly or partly within the local limits of the jurisdiction of such Court, or if the death shall have taken place within such local limits, in the same manner as if both the act had been committed and death had taken place within such local limits.

Supreme Court may deal with offence commenced or completed within its local jurisdiction.

XXX. Any person accused of an offence may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence shall have been either commenced or completed within the local limits of the jurisdiction of such Court, in the same manner as if the offence had been wholly and entirely committed within such local limits.

Offence may be dealt with, if either the act was done or the consequence ensued within the jurisdiction.

XXI. Whenever the offence of which any person shall be accused shall consist of any thing which has been done and of any consequence which has ensued therefrom, the person accused may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if either the act shall have been done or the consequence shall have ensued within the local limits of the Jurisdiction of such Court, in the same manner as if both the act had been done and the consequence had ensued within such local limits.

XXXII. Whenever a person shall be accused of any offence punishable under Section 411, 412, 413, or 414 of the Indian Penal Code in respect to the receiving or retaining of stolen property, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence, by which the possession of the property shall have been transferred, shall have been committed either wholly or in part within the local limits of the jurisdiction of such Court, or if any of the stolen property shall have been received or retained by the person accused within such local limits.

Jurisdiction as to receiving stolen property, when part only of the offence is committed within the jurisdiction.

XXXIII. If any person shall be accused of any offence under Section 424 of the Indian Penal Code of dishonestly or fraudulently concealing or removing any property of himself, or of any other person, or of dishonestly or fraudulently assisting in the concealment or removal thereof, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the property shall have been concealed or removed in any place within the local limits of such Court, or shall have been removed from any place within such local limits.

Jurisdiction in cases of dishonest removal or concealment of property.

XXXIV. If any act shall have been committed or the consequence of any act shall have ensued on the boundaries of the local Jurisdiction of such Court, or so near to such boundaries as to render it doubtful whether such act was committed or such consequence ensued within such local limits or not, such act or consequence may for all purposes be stated, deemed, and taken to have been committed or to have ensued within such local limits.

Provision for cases on or near the boundaries of local jurisdiction.

XXXV. If any person shall be accused of any offence alleged to have been committed on a journey or on any voyage in British India, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if any part of the journey or voyage shall have been performed within the local limits of the jurisdiction of such Court.

Provision for the case of offences committed on a journey or voyage.

XXXVI. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice or by virtue of a commutation of such sentence, or shall be charged with any offence declared to be punishable under Section 227 of the Indian Penal Code or under Section XII. of Act XXIV. of 1855 *(relating to Penal servitude,)* the person accused may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if such person shall be apprehended and retaken within the local limits of the Jurisdiction of such Court, or if he was formerly tried by such Court, or, in the case of an escape from custody, if he shall have escaped from custody in any place within such local limits.

Escape from any lawful custody under sentence.

XXXVII. Every Justice of the Peace shall have power to deal with any person charged with an offence for which he is liable under this Act to be tried by any of Her Majesty's Supreme Court of Judicature, in the same manner as if such offece had been wholly and entirely committed within the local limits of such Court.

Justices may deal with offences triable under this Act.

XXXVIII. A former conviction or acquittal before a Court of competent Jurisdiction of any offence hereby made punishable by Her Majesty's Supreme Courts of Judicature, shall be a bar to any subsequent trial or conviction for the same offence.

Former conviction or acquittal to be a bar to subsequent trial or conviction.

XXXIX. The provisions of Sections 10, 12, 13, 14, 15, 16, 18, and 23 of the 9th Geo. 4 c. 74, intituled "An Act for improving the administration of Criminal Justice in the East Indies," shall be deemed to apply to and to include any offence punishable under the Indian Penal Code. Section 5 of the said Act shall be deemed to include murder or culpable homicide not amounting to murder; and the wards felony or misdemeanor in Section 110 of the said Act shall be deemed to extend to and include any offence declared to be punishable under the Indian Penal Code by means of or in consequence of which the possession of property shall have been transferred.

Part of Stat. 9th Geo. iv.c. 74 to apply to offences under Penal Code.

XL. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "appears by the record" or of the words, "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute" instead of "against the form of the statutes" or *vice versa*, nor because any person mentioned in the indictment is designated by a name of Office or other description or appellation instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or on an impossible day or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage or injury, or spoil in any case where the value or price or the amount of damage, injury, or spoil is not of the essence of the offence.

No indictment to be held to be insufficient for immaterial errors.

Formal objections to indictments must be taken before Jury are sworn. Court may amend any formal defect.

XLI. Every objection to an indictment for uncertainty, or for any formal defect apparent on the face thereof, shall be taken by demurrer or motion to quash such indictment before the Jury shall be sworn, and not afterwards, and every Court before which any objection shall be taken by demurrer or motion to quash for any formal defect, may, if it be thought necessary, cause the indictment to be forthwith amended in such particulars by some Officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

No person to be entitled to a postponement of trial.

XLII. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at an Session of Oyer and Terminer or Session of Gaol delivery. Provided always, that if the Court, upon the application of the person so indicted, or otherwise, shall be of opinion that he ought to be allowed a further time either to prepare for defence or otherwise, such Court may adjourn the Sessions to any subsequent day, and may adjourn the trial of such person to such day or to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent day or Session, without entering into any fresh recognizance for that purpose.

Plea of autrefois convict or acquit.

XLIII. In any plea of Autrefois Convict or Autrefois Acquit, it shall be sufficient for the person accused to state that he has been lafwully convicted or acquitted (as the case may be) of the offence charged in the indictment.

Prosecution for adultery not to be instituted except by the husband.

XLIV. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge.

XLV. A charge of an offence under Section 498 of the Indian Penal Code shall not be instituted except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

Proof necessary, that husband or person in charge of woman has instituted the charge.

XLVI. Upon the trial of an indictment for either of the offences mentioned n the last two preceding Sections, it shall be necessary to prove that the charge was instituted by the husband of the woman if the charge be made under Section 497 of the Indian Penal Code, or by the husband of the woman, or by the person having care of such woman on behalf of her husband, if the charge be made under Section 498 of the said Code, and in either case that the indictment is prosecuted by such husband or other person as the case may be; and on failure of such proof the indictment shall be quashed and the person accused shall be discharged.

XLVII.—LII. *Repealed by Act XII. of 1865, and again by Act XII. of 1867.*

Provision for persons now in the House of Correction.

LIII. From and after the passing of this Act, all persons who are confined at the date of the passing of this Act in the House of Correction, whether uuder the sentence of any of Her Majesty's supreme Courts of Judicature, or of any Justice of the Peace or Police Magistrate, shall be considered to be and shall remain in the custody of that Officer in whom the control of such House of Correction is vested, whether such Officer be the Sheriff or not, or of the keeper of such House of Correction, and such Officer and keeper shall be responsible for the safe custody of all such persons.

Commencement of Act at Fort William in Bengal.

LIV. This Act shall commence and take effect in Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or in any Court to which the whole or any part of the Criminal jurisdiction of that Court shall be transferred, from the time of the passing of the Act ; and shall, so far as the same is applicable, extend to all indictments and proeedings in respect of any offence punishable under the Indian Penal Code, which have been or shall be presented or commenced in the said Court or in any other Court to which the whole or any part of the Criminal jurisdiction of such Court shall be transferred.

Commencement of Act at Madras and Bombay.

LV. This Act shall commence and take effect in Her Majesty's Supreme Courts of Judicature at Fort St. George and Bombay respectively, or in any Courts to which the whole or any part of the Criminal Jurisdiction of those Courts respectively shall be transferred, from the time at which it shall be notified in the Official Gazette, by an order of the Governor in Council of Fort St. George and Bombay respectively, that the Act is to take effect in such Courts ; and from such time the provisions of the Act shall, so far as the same are applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code, which have been or shall be presented or commenced in the said Courts or in any other Courts to which the whole or any part of the Criminal jurisdiction of such Courts shall be transferred.

Act XVI. of 1852 how far repealed.

LVI. From the time at which this Act shall take effect in any of Her Majesty's Supreme Courts of Judicature as provided in the last two preceding Sections, Act XVI. of 1852 is repealed so far as it relates to indictments and proceed-

ins in such Court, except as to offences not punishable under the Indian Penal Code.

LVII. In the construction of this Act, unless where a contrary intention appears from the context, the word "Indictment" shall be understood to include information, inquisition, or presentment, as well as indictment, and also any plea, replication, or other pleading; and the term "finding of the indictment" shall be understood to include the taking of an inquisition, the exhibiting of an information, and the making of a presentment; and words importing the singular number or masculine gender shall include several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and severel matters and things as well as one matter and thing. Words which refer to acts done shall include illegal omissions. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statue 21 and 22, Vic. c. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

Definitions. "Indictment."

"Finding of the indictment."

Number and gender.

"Acts done."

"British India."

"Property."

ACT. NO. XIX. OF 1862.

(Received the assent of the Governor-General on the 1st May.)

An Act to extend to the Province of Oude certain provisions of Acts XIV. of 1843 and XXXVI. of 1855 relating to the manufacture of contraband Salt, and to amend the last-named Act.

Preamble.

Whereas it is expedient to extend to the Province of Oude certain provisions of Act XIV. of 1843 (*for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*) and of Act XXXVI. of 1855 (*to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces,*) and to amend the last-named Act; It is enacted as follows:—

Certain parts of Act XIV. of 1843 and Act XXXVI. of 1855 extended to Oude.

I. So much of the said Act XIV. of 1843 as relates to the manufacture of alimentary Salt, and the prevention and punishment of the illicit manufacture and importation of such Salt, and the said Act XXXVI. of 1855 as hereinafter amended, shall be held to have been and are hereby extended to the Province of Oude from the date on which Act XXXI. of 1861 *to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof*) was extended to the said Province in the manner provided in Section XVIII. of the said Act.

Forcible entry into zenanahs.

II. Section IV. of Act XXXVI. of 1855 is hereby repealed, and the following Section is enacted in lieu thereof, and shall be read and construed in the same manner as if it formed part of the said Act, namely—

"If the place to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the Officer making the search shall give notice to such woman in such zenanah or apartment that she is at liberty to withdraw, and after giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of any Salt. Provided that the responsibility for the act, and the determination whether to force an entry or not, shall rest with the Officer of Customs or Land Revenue only."*

ACT No. XX. OF 1862.

(Received the assent of the Governor-General on the 19th July.)

1. High Court of Bengal may, with sanction of Government, prepare Tables of Fees to be taken, in lieu of Stamp Duties, in respect of proceedings in the Court

* Extended to the Central Provinces by VII. 1864.

in its ordinary original jurisdistion and on appeal from its ordinary original Civil jurisdiction.

2. Instruments held in the Court in its appellate or extraordinary original jurisdiction, or as a Court of Reference or Revision, to be upon Stamps under Schedule B of Act X. of 1862.

3. Fees received under Section 1 to be paid to the account of Government, and the officer receiving the same to render quarterly accounts.

4. Act not to apply to the fees allowed to the Sheriff, Attorneys, or Officers of the Court.

5. Sections 184, 185 186, and 359 of Act VIII. of 1859 suspended as to the High Court, the Judges of which shall record their judgments and orders as prescribed by the Rules of the Court.

6. The Court may fix the time for preferring appeals from judgments, orders, and decrees, of its own Judges or Division Courts.

7. Judgment may be signed in the High Court on any warrant of attorney and "cognovit actionem" in which judgment might have been signed in the Supreme Court.

8. If necessary, a decree may be enforced before the amount due for costs has been ascertained, and execution for costs may issue subsequently.

9. Except as to pleading, the Court may authorize an Attorney to do any act required under Act VIII. of 1852 to be done by a Pleader.

10. Act to apply to the High Courts Madras and Bombay, when established.

11. Act to have effect from 1st July 1862.

*12. And to continue in force till 1st January 1863.**

An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court.

Preamble. Whereas the High Court of Judicature at Fort William in Bengal, constituted by Her Majesty's Letters Patent, dated the 14th day of May 1862, was established by the publication of the said Letters Patent subsequently to the date of the passing of Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*), and it is doubtful whether the proceedings in the said High Courts are excepted from the Stamp Duties imposed by Section XXX. of the said Act X of 1862 according to the Schedule B. thereunto annexed; and whereas it is expedient, as a temporary arrangement, to provide that Court Fees, and not Stamp Duties, shall be paid in respect of proceedings in, and business coming before, the said High Court in the exercise of its ordinary original Civil Jurisdiction, according to the practice which prevailed in the late Supreme Court of Judicature at Fort William in Bengal, and that Stamp Duties shall be levied on all Instruments and Writings specified as requiring Stamps in the Schedule B. annexed to the said Act X. of 1862, which shall be filed, exhibited, or recorded in, or which shall be received or furnished by, the said High Court in the exercise of its appellate Jurisdiction, not being on appeal from its ordinary original Civil Jurisdiction, or in the exercise of its Jurisdiction as a Court of Reference and Revision in Criminal cases, in the same manner as such Stamp Duties were levied in the late Court of Sudder Dewanny and Nizamut Adawlut for the lower Provinces of the Presidency of Fort William in Bengal; and whereas, by an arrangement made between the Government and the said Supreme Court, certain Officers of that Court were remunerated for their services by fixed salaries instead of by fees, and the fees received by such Officers were paid to the account of Government, and formed into a general fund out of which the salaries of such Officers were defrayed, and it is desirable to continue this arrangement in respect to such of the said Officers attached to the said Supreme Court who, as a tempor ary measure, have been appointed Officers of the said High Court, and in respect to any Officers who may hereafter be appointed to the said High Court; and whereas it is expedient to suspend the opperation in the said High Court of certain Sections of Act VIII. of 1859 (*the Code of Civil Procedure*) relating to the manner in which the Judgments and orders of the Courts of Civil Judicature are to be recorded; It is enacted as follows:—

I. Repealed by Act XVI. of 1868.

On what sides of the High Court, Stamp Duties to be levied. II. No Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B. annexed to the said Act X. of 1862, shall be filed, exhibited, or recorded in, or shall be received or furnished by, the said High Court of Judicature in any case coming before such Court in the exercise of its appellate jurisdiction under Section 15 of the said Letters Patent, or in the exercise of its extraordinary original jurisdiction under Sections 13 and 23 of the said Letters Patent, or as a Court of Appeal, Reference, or Revision under Sections 26 and 27 of

* Sections 1, 3 and 4 repealed by Act XV. 1868.

the said Letters Patent, unless such Instrument or Writing be upon a Stamp of a value not less than that indicated, by the Schedule B. annexed to the said Act X. of 1862, as the proper Stamp for similar Instruments and Writings in the said Sudder Court; anything in Section XXX. of the said Act to the contrary notwithstanding, but subject to the proviso therein contained.

III. Repealed by Act XV. of 1868.

IV. Repealed by Act XV. of 1868.

Parts of Act VIII. of 1859 suspended.

V. The operation of the following Sections of the said Act VIII. of 1859, namely, Sections 184, 185, 186, and 359 relating to the manner in which the judgments of the Courts of Civil Jndicature are to be recorded, and so much of the said Act as extends the provisions of the foregoing Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the said High Court; and the said High Court, and every Division Court and Judge thereof, shall record their judgments, and the orders passed by them respectively, in such manner as the said High Court shall by any general rule or rules from time to time direct.

Court to record its judgments and orders as it shall by rule direct.

Courts may fix time for preferring appeals from judgments, &c., of its own Judges or Division Courts.

VI. The High Court may by its own rules fix the time within which appeals from judgments, orders, or decrees made by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction shall be preferred.*

VII. Repealed by Act XIV. of 1870.

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently.

VIII. Whenever it shall appear necessary to a Judge of the said High Court that a decree made in the exercise of the ordinary original jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs, and as to so much thereof as relates to the costs, that the same may be executed as soon as the amount thereof shall be ascertained by taxation.

Court may, in certain cases, authorize act required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney.

Proviso.

IX. Whenever anything is directed by the said Act VIII. of 1859 to be done by or through a Pleader, the said High Court, or any Judge thereof in the exercise of the ordinary original Civil Jurisdiction of the said Court, may authorize such act to be done by or through an Attorney-at-Law of the Court. Provided that no Attorney shall be authorized, under the provisions of this Section, to plead in the said Court or in any Division Court for any person.

Application of Act to the High Courts at Madras and Bombay.

X. This Act shall apply, *mutatis mutandis*, to the High Courts of Judicature which may be established at Madras and Bombay under Act 24 and 25 Victoria, Chapter 104, for those Presidencies respectively, whenever such Courts shall be established. Provided that the powers vested by this Act in the Governor-General in council shall be exercised in the Presidencies of Madras and Bombay by the Governors in Council of those Presidencies respectively.

XI. Repealed by Act XIV. of 1870.

XII. Repealed by Act XIV. of 1870.

ACT No. XXIV. OF 1862.

(Received the assent of the Governor-General on the 24th December.)

An Act to continue in force Act XX. of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court.)

Preamble.

Whereas it is expedient that Act XX. of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court*) should continue in force for a further period of one year from the 1st day of January 1863; It is enacted as follows:—

Act XX. of 1862 continued till the 1st of January 1864

I. Act XX. of 1862 shall continue in force until the first day of January 1864.†

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* *See* Act XXIV. of 1862.

† *See* Act XXIII. of 1863, Extending the period of operation of the Act during the pleasure of the Governor-General in Council.

High Court may fix the time for applications for review of judgment.

II. The following words shall be read as if they had been added to Section VI. of the said Act XX. of 1862. The High Court may also, by its own rules, fix the time within which applications for the review of any judgment passed by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original Civil jurisdiction, shall be preferred.

ACT No. I. OF 1863.*

(Received the assent of the Governor-General on the 15th January.)

1. The Pegu Civil Code repealed.

2. Besides Recorders' Courts, Small Cause Courts, or other Courts to be hereafter established, there shall be six Grades of Courts in Burmah, viz., the Courts of the Chief Commissioner, Commissioner, Deputy Commissioner, and Assistant Commissioner (or Extra Assistant of 1st Class;) and the Courts of the Extra Assistant of the 2nd (Tseekay) and 3rd (Myooke) Classes.

3. Extra Assistants of 3rd Class empowered to try suits not exceeding 500 Rupees in value.

4. 2nd Class Extra Assistants to try suits up to 3,000 Rupees.

5. Assistant Commissioners and 1st Class Extra Assistants to try suits up to 5,000 Rupees.

6. Deputy Commissioners to try suits above 5,000 Rupees, and hear appeals from the lower Courts.

7. Commissioners to hear appeals from the original decisions and orders of the Deputy Commissioners. They may also receive second appeals from the decisions of their Deputies passed in regular appeal, and, in such cases, no special appeal shall be allowed from such decisions or from the decisions of the Commissioners on such second appeals.

8. Except as above and in Section 18, the Chief Commissioner to hear special appeals from the decisions of the Deputy Commissioners and Commissioners passed in appeal.

9. Suit to be instituted in the Court of the lowest competent grade.

10. The Chief Commissioner, Commissioners, and Deputy Commissioners may withdraw and transfer suits for trial from one lower Court to another.

11. Suits for immoveable property situate in different Districts may be brought in any Court within whose jurisdiction any portion of the property is situate, but the Court must obtain the authority of the Commissioner of the Division before proceeding with the suit.

12. If the property be situate in Divisions subject to different Commissioners, the Commissioner to whome application is made must obtain the concurrence of the other Commissioner.

13. Except when otherwise provided by law, appeals to lie from the decisions of the Courts of original jurisdiction.

14. If the appeal lie to the Deputy Commissioner, the memorandum of appeal must be presented within 30 days; and, if to the Commissioner, within 6 weeks.

15. In cases of appeal preferred under Sections 6 or 7, the Commissioner or Deputy Commissioner may confirm the decision of the lower Court, without summoning the respondent.

16. Applications for second appeals to be preferred within the period prescribed for regular appeals to the Commissioner.

17. Applications for special appeal to be made within 90 days from the judgment appealed against, and to be subject to the conditions of similar applications to the Sudder Court.

18. No special appeal to lie from the decision of any Court in suits under 500 Rupees of the nature of those cognizable in Small Cause Courts.

19. In cases of regular appeal in which no special appeal is allowed, and in cases of second appeal, questions of law or usage may be submitted for the decision of the Chief Commissioner.

20. Applications to appeal in formâ pauperis to be on Stamp Paper of one Rupee if made to the Deputy Commissioner, and of two Rupees if made to the Commissioner or Chief Commissioner.

21. Applications for review of judgment may be made on the ground of the discovery of fresh evidence, or on other good and sufficient reason; but must be made within 90 days.

22. Cases under Acts XIX. of 1841, XL. of 1858, IX. of 1861, XXXV. of 1858, and XXVII. of 1860 to be determined by the Deputy Commissioner, and appeals from orders passed in them may be made within 30 days to the Commissioner.

23. Proceedings in Civil suits to be regulated by the Code of Civil Procedure.

* See Act XXI. and XXIV of 1863, and Act III. of 1866.

24. Acts XIV. of 1859 and XIV. of 1862 extended to Pegu except as to pending suits, from the date on which this Act comes into operation in Burmah.

25. Chief Commissioner to exercise the powers vested in the Sudder Court by the Code of Civil Procedure.

26. Except as to applications to appeal in formâ pauperis, Stamp Duties prescribed by Schedule B of Act X. of 1862 leviable in the several Courts.

27. The local jurisdiction of a Deputy Commissioner to be deemed a District, and his Court to be deemed the district Court.

28. Act to come into operation on 1st May 1863.

An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

Preamble.

Whereas it is expedient to define the limits of jurisdiction of the Courts of Civil Judicature in British Burmah; and whereas it is also expedient that the Code of Civil Procedure should have effect throughout British Burmah subject to certain alterations and provisoes, and that provision should be made for extending the operation of certain Acts to the said Territory; It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

Grades of Civil Courts in British Burmah.

II. There shall be six grades of Courts in British Burmah, which shall be in addition to any Recorders' Courts, Courts of Small Causes, or other Courts established under any Act which may be hereafter passed, namely—

1. The Court of the Extra Assistant of the third class, or the Myooke's Court.
2. The Court of the Extra Assistant of the second class, or the Tseekay's Court.
3. The Court of the Assistant Commissioner, and the Court of the Extra Assistant of the first class.
4. The Court of the Deputy Commissioner.
5. The Court of the Commissioner, and
6. The Court of the Chief Commissioner.

Jurisdiction of Court of Extra Assistant of 3rd class, or Myooke's Court.

III. The Court of the Extra Assistant of the third class, or the Myooke's Court, shall have power to receive, try, and determine suits of every description not exceeding 500 Rupees in value or amount.

Jurisdiction of Court of Extra Assistant 2nd class, or Tseekay's Court.

IV. The Court of the Extra Assistant of the second class, or the Tseeskay's Court, shall have power to receive, try, and determine suits of every description not exceeding 3,000 Rupees in value or amount.

Jurisdiction of Courts of Assistant Commissioner and of Extra Assistant of 1st class.

V. The Court of the Assistant Commissioner and the Court of the Extra Assistant of the first class, shall have power to receive, try, and determine suits of every description not exceeding 5,000 Rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

VI. The Court of the Deputy Commissioner shall have power to receive, try, and determine suits of every description exceeding 5,000 Rupees in value or amount, and appeals from the decisions and, where an appeal is allowed by the Code of Civil Procedure, from the orders of the Courts of the Extra Assistants of the third class or the Myooke's Courts, of the Courts of the Extra Assistant of the second class or the Tseekay's Courts, and of the Courts of the Assistant Commissioners and Extra Assistants of the first class, in the District of such Deputy Commissioner.

Jurisdiction of the Court of the Commissioner.

VII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions, and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the Deputy Commissioners in the Division of such Commissioner. The Commissioner may also receive a second appeal from the decisions of the Courts of the Deputy Commissioners in his Division, passed in regular appeal, reversing or modifying the Decision of the Court of original jurisdiction, on a point material to the merits of the case, if, on a perusal of the grounds of appeal and of the judgments of the Courts below, copies of which judgments shall be fileld with the petition of appeal, a further consideration of the case shall appear to him to be requisite for the ends of justice. The decision of the Commissioner on such second appeal, whether, for confirming, modifying, or reversing the decision of the lower Appellate Court, shall be final, and no special appeal shall be allowed in such case to the Chief Commissioner from the decision either of the Deputy Commissioner passed in regular appeal, or of the Commissioner of the Division passed on such second appeal. The rejection of an appeal by the Commissioner on a second appeal, shall have the same effect as a confirmation of the decree of the lower Court.

VIII. The Court of the Chief Commissioner shall, except as provided in the last preceding Section and in Section XVIII. of this Act, have power to hear and determine special appeals from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Jurisdiction of the Court of Chief Commissioner.

IX. Every suit shall be instituted in the Court of the lowest grade competent to try it.

In what Court suit shall be instituted.

X. It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same. And it shall be lawful for the Chief Commissioner, or for the Commissioner of a Division, to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner, shall be transferred to any other Court subordinate to his authority and competent in respect of the value of the suit or appeal to try the same.

Transfer of suits.

XI. If the suit be for land or other immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division, through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in different Districts.

XII. If the Districts within the limits of which the property is situate, are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District, in which the suit is brought, is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority to proceed with the suit.

Suits for immoveable property situate in different Divisions.

XIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Appeal to lie from all decisions, except when expressly prohibited.

XIV. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure shall be presented in the Court empowered to hear the appeal, within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the Memorandum of appeal within such period, that is to say, within thirty days if the appeal lie to the Court of a Deputy Commissioner, and six weeks if the appeal lie to a Commissioner of a Division. The period shall be reckoned from and exclusive of the day on which the judgment appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeal is allowed by the Code of Civil Procedure or by this Act, shall be presented within the same period as appeals from decisions.

Memorandum of appeal within what time to be presented.

XV. In cases of appeal preferred to a Deputy Commissioner under Section VI., or to a Commissioner under Section VII. of this Act, it shall not be necessary to summon the Respondent in the first instance, and if, upon the perusal of the judgment of the Court below, of the whole or any part of the record of the original suit, and of the petition of appeal in the presence of the Appellant or of his duly constituted Agent, the Deputy Commissioner or the Commissioner, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, recording his reasons for rejecting the appeal. In such case the Deputy Commissioner or the Commissioner shall cause the order for confirmation to be made known to the Respondent, through the Court from whose decision the appeal was made.

Decision appealed from may be confirmed without summoning the respondent.

XVI. Applications for a second appeal under Section VII. of this Act shall be preferred in the manner and within the period prescribed in Section XIV. for regular appeals to the Commissioner of a Division, and if the Commissioner shall see fit to admit any such second appeal, it shall be heard and determined in every respect as an ordinary regular appeal.

Procedure as to second appeals.

XVII. Applications for the admission of a special appeal, which the Chief Commissioner is empowered by Section VIII. of this Act to receive and determine, may be on any of the grounds specified in Section 372 of the Code of Civil Procedure. The application shall be presented within ninety days reckoned from and exclusive of the day on which the judgment of the lower Appellate Court

Applications for the admission of special appeals.

was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against, unless the applicant shall show sufficient cause, to the satisfaction of the Chief Commissioner, for not having presented the application within such period. The application shall be subject to all the conditions, whether as regards Stamp duty, remission of a portion thereof when the application is made in *forma pauperis*, or otherwise, contained in the said Code in cases of application for the admission of a special appeal to the Sudder Court.

No special appeal from decision of any Court in suits cognizable in Small Cause Courts.

XVIII. No special appeal shall lie from any decision or order which shall be passed in regular appeal by any Court after the passing of this Act, in any suit of the nature cognizable in Courts of Small Causes under Act XLII. of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed the sum of five hundred Rupees.

Reference of question to the Chief Commissioner.

XIX. If in any case of regular appeal in which under the 1st preceding Section no special appeal is allowed, or in any case of second appeal admitted under Section VII. of this Act, any question of law or usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court trying the appeal shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the appeal, draw up a statement of the case, and submit such statement, with its own opinion, for the decision of the Chief Commissioner. The provisions contained in Sections 29 to 34 of Act XXIII. of 1861 *(to amend Act VIII. of 1859, for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter)* shall be applicable to the statement so submitted, and the Chief Commissioner shall proceed in the case under the rules contained in the said Sections for the direction of the Sudder Court, so far as the same are applicable.

Application to appeal in *forma pauperis*.

XX. Applications to be allowed to appeal in *formâ pauperis* shall be written on Stamp paper of the value of one Rupee if the appeal lie to the Court of the Deputy Commissioner, and on Stamp paper of the value of two Rupees if the appeal lie to the Court of the Commissioner or to the Court of the Chief Commissioner, and shall be presented in Court competent to receive the same, within the period prescribed by this Act for the presentation of appeals from decisions, or when the application is made to the Chief Commissioner, within the period prescribed by this Act for the presenta tion of an application for the admission of a special appeal.

On what grounds review of judgment may be applied for.

XXI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superiol Court, or by a decree passed in appeal from which no second or special appear shall have been admitted, or by a decree of the Court of the Chief Commissioner from which either no appeal shall have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit shall have been transmitted to Her Majesty in Council, and who, from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Court which passed the decree.

And within what time.

Such application shall be presented within the period of ninety days from the date of the decree sought to be reviewed, unless the applicant shall show good and sufficient reason for not presenting it within such period.

Extension of certain Acts.

XXI. Act XIX of 1841 *(for the protection of moveable and immoveable property against wrongful possession in cases of successions)*, Act XL. of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)*, and Act IX. of 1861 *(to amend the law relating to minors)* are hereby extended to British Burmah. All cases or proceedings arising under the said Acts or under Act XXXV. of 1858 *(to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Court of Judicature)* or Act XXVII. of 1860 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons)* shall be received and determined by the Deputy Commissioner of the District, subject to the provisions in the said Act contained respectively as to jurisdiction and otherwise.

Trial of cases or proceedings under the above and other Acts.

Appeal.

All orders passed by the Deputy Commissioners in such cases or proceedings shall be open to appeal to the Commissioner of the division, provided that no such appeal shall be allowed unless it be presented within thirty days from the date of the order appealed against, or unless the party making the appeal can show good and sufficient cause, to the satisfaction of the Commissioner, for not presenting the appeal within such period. The order of the Commissioner on any such appeal shall be final.

XXIII. Except as is in this Act otherwise provided, the proceedings in Civil suits of every description between party and party, brought in the Courts of Civil Judicature in British Burmah mentioned in Section II. of this Act, shall be regulated by the said Code of Civil Procedure, and, except as otherwise provided by this Act or by any Law which may hereafter be passed, by no other Law or Regulation.

Procedure of the Civil Courts in British Burmah to be regulated by the Code of Civil procedure.

XXIV. Act XIV. of 1859 *(to provided for the limitation of suits,)* as amended by Act XIV. of 1862, is hereby extended to the Province of Pegu, and shall take effect therein from the date on which this Act comes into operation in British Burmah, in supersession of any law of limitation in force in the said Province. Provided that all suits pending in any of the Civil Courts in the said Province upon the date upon which this Act comes into operation in British Burmah shall, so far as regards the provisions in this Section contained, be tried and determined as if this Act had not been passed. Provided also that Clause 15 of Section I, of the said Act XIV. of 1859 shall not apply to any claim to foreclosure arising under any deed or instrument of mortgage of immoveable property in Pegu executed before the date aforesaid, but every such claim arising under any such deed or instrument shall, so far as the law of limitation is concerned, be governed by the laws or rules of limitation now in force in that Province.

Act XIV. of 1859 extended to Pegu.

XXV. Except as otherwise provided in this Act, the powers vested in the Sudder Court by the Code of Civil Procedure, shall be exercised in British Burmah by the Chief Commissioner.

Powers vested in Sudder Court, to be exercised by the Chief Commissioner.

XXVI. Except as provided in Section XX. of this Act, the Stamp Duties prescribed by Schedule B annexed to Act X. of 1862 *(to consolidate and amend the law relating to Stamp Duties)* for Instruments and Writings in the Sudder Court and the Courts subordinate to the Sudder Court, shall be chargeable on Instruments and Writings in the Court of the Chief Commissioner and the several Courts subordinate to the Chief Commissioner.

Levy of Stamp Duties.

XXVII. The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purposes of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

Construction of "District Court."

XXVIII. Repealed by Act XIV. of 1870.

ACT No. II. OF 1862.

(Received the assent of the Governor-General on the 15th January.)

1. Highest Court of Civil Jurisdiction in any Non-Regulation Province, may, subject to the Rules and Orders prescribed for the purpose, admit an apppeal to Her Majesty in Council from any final judgment, decree, or order of its own, in cases above the value of 10,000 Rupees, or in any other case which it shall deem fit for such appeal.

2. Such Court may also permit an appeal from any preliminary or interlocutory judgment, decree, or order made be itself in any such proceeding, not being of criminal jurisdiction.

3. On admission or permission of an appeal, notice to be given to the other party.

4. The Court may either order the judgment appealed against to be enforced, or may suspend execution pending the appeal, taking sufficient security in either case.

5. Appellant to find security for the costs of the appeal.

6. Party desirous of appealing may, within 6 months from date of judgment, petition the Court to require security from the other party for staying execution or any other purpose.

7. The Court may at time require further security.

8. In default of further security, Court may order enforcement of the judgment if security was originally furnished by the appellant, or may compel the delivery of the property the subject of appeal if it was furnished by the respondent.

9. Two copies of the proceedings in the suit appealed against to be forwarded to Her Majesty in Council.

10. Expense of copying and translating to be defrayed by the appellant.

11. Court to require a deposit for such expense as a preliminary to the admission of the appeal.

12. Either party may obtain copies of papers, on paying for the expense.

13. Also copy of any local regulation or law.

14. Orders or decrees of Her Majesty in Council to be enforced and executed as original orders or decrees.

15. Petition for execution of such decree or order to be made to the Court which made the first decree or order appealed from.

16. Appeal to lie from order of execution of decree made in appeal as aforesaid, in the same manner as an appeal would lie from an order for the enforcement of the decree appealed from.

17. Court of highest Civil jurisdiction may enforce or obtain execution of the decree, if ordered so to do by Her Majesty in Council.

18. Nothing in this Act to be understood to bar Her Majesty from rejecting or receiving appeals.

19. Interpretation of the words "British India."

An Act to regulate the admission of Appeals to Her Majesty in Council from certain Judgments and orders in Provinces not subject to the General Regulations.

Preamble.

Whereas it is expedient to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations ; It is enacted as follows :—

Admission of appeal.

I. If a party in a suit is desirous of preferring an appeal to Her Majesty in Council from any final judgment, decree, or order made on appeal or revision by the Court of highest Civil jurisdiction in any Province in British India not subject to the General Regulations, or from any such final judgment, decree, or order made in the exercise of original jurisdiction by the said Court, in any case in which the sum or matter at issue is above the amount or value of 10,000 Rupees, or in which such judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question to or respecting property amounting to or of the value of 10,000 Rupees, or from any other final judgment, decree, or order, made either on appeal or otherwise as aforesaid, when the said Court shall declare that the case is a fit one for appeal to Her Majesty in Council, such Court shall admit such appeal, subject to such rules and orders as shall be in force, or shall from time to time be made in that behalf by Her Majesty in Council, in respect of such appeals from Her Majesty's High Courts of Judicature in British India.

Appeal from interlocutory judgments.

II. It shall further be lawful for such Court, at its discretion, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, or order of such Court in any such proceeding as aforesaid (not being of Criminal jurisdiction), to grant permission to such party to appeal against the same to Her Majesty in Council, subject to such rules, regulations, and limitation as shall be in force, or as shall from time to time be declared by Her Majesty, respecting appeals from final judgments, decrees, and orders, of Her Majesty's said High Courts of Judicature.

Notice of appeal to the other party.

III. On the admission or permission of the appeal by the Court as herein before provided, the Court shall forthwith cause notice to be given to the other party, that the Appellant has preferred an appeal to Her Majesty in Council.

Court may either enforce judgment taking security, or suspend execution pending appeal.

IV. The Court, if applied to, may either order the judgment or determination appealed against to be enforced, taking sufficient security for the performance of such order or decree as Her Majesty in Council may make on the appeal ; or it may direct, on similar security being found, that no order for enforcing the Judgment or determination shall be issued pending the appeal, and that, if any such order has been issued, it shall, so far as it has not been executed, be suspended .

Appellant to find security for costs of appeal.

V. In either of the cases mentioned in the last preceding Section, the Court shall require the Appellant to find security for the payment of such costs as it may think likely to be incurred by the appeal.

Time allowed for presenting petition of appeal.

VI. If a party who is desirous of preferring an appeal to Her Majesty in Council in any of other cases mentioned in Section I. or Section II. of this Act, shall require the assistance of the said Court for obtaining security from the other party for staying execution of the judgment, decree, or order, that has been passed, or for any other purpose, he shall present his petition to the said Court within six calendar months from the date of the judgment, decree or order appealed against.

If security be found inadequate, Court

VII. If at any time pending an appeal under this Act, the security taken from either party appears inadequate, whether from the increase or improvement of the

property forming the subject of appeal, or from the insufficiency of the securities, the Court before which the appeal is pending may, on the application of the other party, require further security.

may require it to be increased.

VIII. In default of such further security being found, if the original security was furnished by the Appellant, the Court may issue an order for enforcing the judgment or determination appealed against as if no such original security had been given; and if the original security was furnished by the Respondent, the Court, so far as may be practicable, shall compel him to deliver up the property forming the subject of appeal which shall be disposed of in conformity with such of the rules in force as may be applicable to the particular case.

If additional security be not furnished.

IX. In every case of appeal under this Act, the Court shall certify and transmit to Her Majesty in Council, under the seal of the Court, two true and correct copies of all evidence, proceedings, judgments, decrees, and orders had or made in the case appealed, so far as the same have relation to the matters of appeal, together with a copy of the reasons given by such Court for or against the judgment or determination appealed against.

Proceedings in the suit appealed to be forwarded to Her Majesty in Council.

X. The expense of preparing the two aforesaid copies, and of translating into English so much of the original documents as may not be in that language, shall be defrayed by the party prosecuting the appeal.

Expense of copying and translating papers in appeals to be paid by Appellants.

XI. The Court shall cause the deposit by the Appellant, within the time allowed for furnishing security for costs of appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, shall declare the appeal admitted, and give notice thereof to the Appellant and Respondent respectively.

Court to require a deposit for such expense prior to the admission of an appeal

XII. Either party, on application, may obtain one or more authenticated copies of any of the papers in the suit, on paying the reasonable expenses incurred in preparing them.

Either party, on paying for the same, may obtain copy of any paper.

XIII. Either party, in like manner, may obtain an authenticated copy of an local regulation or law which he may require in the appeal.

And of any local regulation or law.

XIV. The orders or decrees of Her Majesty in Council, when duly certified shall be enforced and executed, under the directions of the said Court, by the Judge or Officer by whom the suit was originally tried, in the manner and according to the rules and laws applicable to the execution and enforcement of original orders or decrees made by such Judge or Officer.

Decrees of Her Majesty in Council how to be executed.

XV. Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

Execution how to be obtained.

XVI. An appeal shall lie from any decree or order made by such last mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid, in the same manner and subject to the same laws, rules, and regulations as an appeal from an order or orders made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

Appeal from order of enforcement.

XVII. Nothing herein contained shall be construed so as to prevent the said Court of highest Civil jurisdiction from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court to enforce or execute the same.

Court of highest Civil jurisdiction may execute decrees by order of Her Majesty in Council.

XVIII. Nothing in this Act contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all appeals to Her, either in rejecting any she may consider inadmissible, or in receiving any she may judge admissible.

Saving of Her Majesty's power as to receiving or rejecting appeals.

XIX. The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c, 106, entitled "An Act for the better Government of India."

Interpretation of "British India."

ACT No. IV. OF 1863.*

(Received the assent of the Governor-General on the 29th January.)

1. *Duty on goods imported into Rangoon for export to the Burmese Territory, limited to one per cent. ad valorem.*

See also Act XII. of 1864.

2. *Goods so imported may be conveyed to Maloon and Menhla in charge of a special officer, who shall be held to be a public servant under the penal Code.*

3. *Governor-General in Council may discontinue and re-impose any of the Duties now levied at Myo and Tounghoo.*

4. *Act to take effect on the ratification of the Treaty.*

An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.

Preamble

Whereas a Treaty has been negotiated between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Ava, and in the 4th and 8th Articles of the said Treaty it is stipulated and agreed as follows :—

Article 4th.—"When goods are imported into Rangoon from any British or "Foreign Territory, and declared to be for export by the Irrawaddy river to the "Burmese Territory, the English Ruler shall, provided bulk is not broken, and he "believes the Manifest to be true, charge one per cent. on their value, and if he so "desires shall allow them to be conveyed under the charge of an Officer until arri-"val at Maloon and Menhla. The Tariff value of goods shall be forwarded yearly "to the Burmese Ruler. If such goods are declared for export to other territories "and not for sale in the Burmese territories, the Burmese Ruler shall, if he believes "the Manifest to be true, not cause bulk to be broken, and such goods shall be free "of Duty.

Article 8th.—"Should the British Ruler within one year after the conclusion "of this Treaty abolish the Duties now taken at Thayet Myo and Tounghoo, the "Burmese Ruler with a regard to the benefit of the people of his country will, if so "inclined, after one, two, three, or four years abolish the Duties now taken at Ma-"loon and Tounghoo (in the Burmese Territory.)"

And whereas it is necessary to give effect to the stipulations and engagements aforesaid by an Act to regulate the Duties of Customs at the Port of Rangoon and elsewhere in conformity to such stipulations and engagements; It is enacted as follows :—

Duty on goods imported into Rangoon from British or Foreign Territory limited to one per cent. *ad valorem.*

I. When any goods are imported into Rangoon from any British or Foreign Territory whether under bond or otherwise, and declared by the importer thereof to be for export by the Irrawaddy river to the Burmese Territory for sale therein, or for export through such territory for sale in other territories, such goods may be entered at the Custom House at Rangoon for such export and sale, and thereupon a duty of Customs of one per cent. *ad valorem* and no more, shall be charged, provided that bulk of such goods is not broken, and the Officer in charge of the Custom House is satisfied of the truth of the entry of such goods in the Manifest of the Vessel wherein such goods are brought to Rangoon.

Conveyance of goods imported as above to to Maloon and Menhla.

II. Whenever any goods are entered at the Custom House at Rangoon under the last preceding Section, such goods may be conveyed to Maloon and Menhla under charge of an Officer to be appointed for the purpose, and the Officer so appointed to the charge of such goods shall be held to be a public servant within the meaning of Section 186 of the Indian Penal Code.

Government may discontinue duties now taken at Thayet Myoo and Tounghoo.

III. It shall be lawful for the Governor-General of India in Council, by a Notification to be published in the *Calcutta Gazette*, to order the discontinuance of the Duties or any of them now levied at Thayet Myo and Tounghoo, and subsequently, if he shall see fit, by a like Notification, to order that such Duties or any of them shall be revived and re-imposed, and any order made and published under this Section shall have the force of law.

Commencement of Act.

IV. This Act shall take effect from the time when the ratifications of the said Treaty are exchanged.

ACT No. VI. OF 1863.*

(Received the assent of the Governor-General on the 29th January.)

1. Act to be called the Consolidated Customs Act.
2. Repeal of certain Regulations of the Bengal Code and of certain Acts and portions of Acts of the Governor-General in Council.
3. Interpretation of words.

* Act XX. of 1867 and Act XVII. of 1869, to be read as part of this Act.

GENERAL RULES.

4. Chief Customs Authority may, with sanction of local Government, make Rules for regulating the proceedings of Officers of Sea Customs.

5. Also, Rules for landing and shipping passengers' baggage and mail parcels. Fee for landing may be charged.

6. All disputes between Officers of Customs and Masters of vessels or importers or exporters, to be settled by the Chief Customs Authority, subject to appeal to local Government.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &c.

7. Local Government to appoint the necessary Officers in places in which Duties are levied, and may suspend or dismiss them.

8. The powers of the local Government under the preceding Section may be delegated to any Customs Authority.

9. Where there is no Officer in charge of a Custom House, the Collector of Revenue and his subordinates to be deemed the proper Officers under this Act.

10. Local Government may from time to time declare the limits of Ports for landing and shipping, and appoint wharves. Existing Ports and Wharves to continue, until otherwise declared.

11. Governor-General may declare any Port to be a Free Port.

12. For the purposes of Sections 18, 141, and 149 to 160, Governor-General in Council may direct a Port on the Continent of India, though not in British India, to be regarded as a British Indian Port.

13. Goods landed or shipped at other than authorized Port, liable, together with the vessel or carriage conveying them, to be confiscated.

14. Local Government may declare any Port or place to be a Warehousing Port. Existing Ports so used, to continue until otherwise declared.

15. Chief Customs Authority to approve, appoint, or license Warehouses. Existing Warehouses to continue, until otherwise ordered.

LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

16. In Ports not free, Duties at the rates prescribed by law to be levied on goods imported by Sea from Foreign Ports.

17. The prescribed Duties to be similarly levied on goods exported from British Ports, not being Free, to Foreign Ports.

18. Except as regards Opium, Salt, and Spirits, no duties to be levied on goods carried from one Indian Port to another, not being Free Ports.

19. Local Government may authorize Chief Customs Authority, by special, order to exempt any goods from payment of Duty.

20. Baggage in actual use may be passed free of Duty.

21. The importation or exportation of books printed in infringement of an Indian copyright, of false or counterfeit coin, or of obscene books, pamphlets, &c., prohibited.

22. The importation, without license, of arms and ammunition (except fowling pieces and powder for private use) prohibited.

23. Governor-General in Council may prohibit or restrict the importation or exportation of any particular class of goods.

24. Goods imported or exported contrary to prohibition or restriction, liable to confiscation, and person concerned to a penalty of 3 times the value, or 1,000 Rs.

25. Goods not prohibited or restricted may be imported or exported. Dutiable goods may be warehoused without payment of Duty.

26. Importer or exporter to declare real value of goods not liable to Duty, or liable to fixed Duties according to weight or quantity or on Tariff valuation.

27. Goods which appear to be under-valued, may be taken over for Government, and, when sold, half of the excess proceeds may be given to the Officer who detected the under-valuation. Chief Officer may permit amendment of valuation.

28. Goods liable to confiscation with the packages containing them, if wrongfully described, or wilfully mis-stated or concealed, or if the packages differ widely from the description.

29. Date of entry for home consumption to be deemed the date of importation.

30. Date of outward entry to be deemed the date of exportation.

31. Goods of Indian manufacture imported from a Foreign Port, to be treated as Foreign goods, unless imported within 3 years from exportation, and owned throughout by the exporter. Goods for which drawback has been received, to be treated as Foreign.

32. Stations may be appointed for Customs Officers to board and land from vessels, and for the mooring of small vessels not carrying Pilots. Person infringing orders under this Section liable to a penalty of 500 Rs.

IMPORTATION.

33. Local Government may fix places beyond which vessels from Foreign Ports are not to proceed, until a Report or Manifest has been delivered to the Pilot or Customs Officer.

34. Master of vessel omitting to deliver Manifest, or delivering false Manifest, liable to a penalty of 1,000 Rs.

35. Master of vessel anchoring below the fixed place and omitting to deliver Manifest within 24 hours, liable to a penalty of 1,000 Rs.

36. Where no place has been fixed, Master to deliver Manifest within 24 hours after landing.

37. Penalty of 500 Rupees for refusing to receive Manifest.

38. Master removing his vessel from place of mooring, without authority of Master Attendant or Harbour Master, liable to a penalty of 1,000 Rupees.

39. Stations for boarding any vessel arriving from a Foreign Port may be appointed by Chief Customs Authority.

40. Master of vessel failing to bring to at Boarding Station, liable to a penalty of 1,000 Rupees.

41. Officers may be deputed to board vessels arriving at Port, and remain on board by day and by night. Discharge of Cargo may be ordered without the presence of an Officer.

42. Master of vessel refusing to receive Officer, liable to a penalty of 500 Rupes, for each day of refusal.

43. Master bound also to receive on board one servant of Officer, and to provide accommodation and shelter for both.

44. Officer to have free access to every part of the ship, and may fasten and secure goods. If the keys are withheld, a written order may be issued to search and, if necessary, break open any closed receptacle, and goods found concealed therein shall be confiscated.

45. Master refusing to allow search, or opening, breaking, or conveying away, good secured, liable to a penalty of 1,000 Rupees.

46. Vessel not to break bulk until Manifest be delivered and order given. Special pass for unshipping of Treasure.

47. Master, if required, to deliver bills of lading to Officer in charge of Custom House. If bills of lading be fraudulent, or if any part of the cargo be staved, &c., without satisfactory explanation, Master liable to a penalty of 1,000 Rupees.

48. Goods not entered in Manifest, liable to confiscation or to be charged with increased rates of Duty.

49. If goods entered in the Manifest be not found, or be short in quantity and the deficiency be not accounted for, Master liable, in addition to full Duty, to a penalty of twice the amount of Duty, or of 500 Rupees for every missing package.

50. Amendment of obvious errors may be permitted on payment of a fee.

51. Fifteen days to be allowed for the landing of import cargo from a vessel of 600 Tons, and one additional day for every 50 Tons in excess. If that period be exceeded, vessel to be charged for Customs Officer at 5 Rupees a day.

52. If importer do not land goods within 15 days or the further period fixed in the bill of lading, the Master may require that the goods be carried to the Custom House and kept there.

53. So also, if the cargo, with the exception of a small quantity, be landed within 15 days.

54. So also, if earlier period be specified in bill of lading, and importer do not land goods within that period.

55. Small packages may at any time be carried to the Custom House, and if not claimed before vessel clear outwards, notice of lien may be given.

56. If the Duties and other charges on goods carried to the Custom House under last 4 Sections be not paid, or the goods warehoused, within 4 months, the goods may be sold by auction. Perishable goods may be sold at any time.

57. Goods not cleared within two months from landing may be sold, and proceeds applied first to payment of Duties and other charges.

58. No goods, except passenger's baggage, to be discharged on Sundays or holidays, nor except at appointed hours and in presence of Customs Officers, under a penalty of 1,000 Rupees and confiscation.

59. Goods removed from vessel, to be landed, at the proper wharf or place: if not so landed, or if found out of proper track, liable to confiscation.

60. Goods not landed at proper wharf, or transhipped before landing, liable to confiscation.

61. Goods landed without a boat-note liable to confiscation; or person in fault, to a penalty of twice the Duty.

62. Importer to deliver to the Officer in charge of the Custom House a bill of entry corresponding with the particulars of the goods in the Manifest, with a declaration of the value.

63. Person taking or passing goods without entry, liable to a penalty of 500 Rupees. No entry necessary for passenger's baggage, but if dutiable goods be found concealed therein, the whole liable to confiscation

64. Goods fraudulently removed before passing, liable to confiscation; or if goods cannot be recovered, owner liable to pay full Duty and twice that amount as a penalty, or Rs. 1,000 fine for every missing package.

65. Claim to abatement or refund of Duty on account of damaged condition of goods imported, to be in writing, and certified.

66. Damaged goods may be sold by auction and the Duty adjusted on gross amount realised. No abatement on articles liable to duty on quantity, nor on goods liable to "ad valorem" Duty, unless deteriorated to the extent of one-fifth.

67. Goods derelict, jetsam, flotsam, and wreck, to be treated as Foreign goods, unless entitled to be admitted Duty free, or to abatement in respect of damages.

68. Goods stowed in bulk may be weighed or measured before landing, and Duty levied accordingly.

69. Ships' stores, and Cargo intended for another Port, if entered as such in the Manifest, not liable to Duty.

WAREHOUSING.

70. Goods may be deposited in Warehouse without payment of Duty.

71. Keeper of public Warehouse to be appointed by Chief Officer of Customs, and to be responsible.

72. Chief Officer to determine the terms and conditions of deposit in public Warehouse. A Table of rates to be placed in a conspicuous part of the building.

73. Chief Officer may license private Warehouses, and may revoke the license after one month's notice.

74. Application for license to be in the Form A.

75. Application for admission of goods to be in Form B,

76. Goods to be assessed for Duty before warehousing, and the Keeper or license-holder to be answerable, subject to allowance for ullage and wastage, for weight or gauge. On clearance, goods may be re-assessed for Duty, if an alteration of Duty or of any fixed valuation for Duty shall have taken place.

77. Importer of goods warehoused to execute a bond in Form C. Separate bond necessary for cargoes imported by different vessels.

78. Bond to be for twice the amount of Duty, and to stipulate for payment of interest from date of demand.

79. Bonded goods may remain in Warehouse for 3 years without payment of Duty.

80. Goods carried to a Warehouse except under care of a Customs Officer and in authorized manner, liable to confiscation, and person so carrying to a penalty of Rupees 1,000.

81. Goods sent to Warehouse to be accompanied with a pass specifying particulars, to be certified by the Warehouse Officer and returned.

82. If goods be passed by tale or package, importer to be liable, for every error tending to injure the Revenue, unless accidental, to a penalty of ten times the amount of Duty likely to be lost. Error of over-statement may be rectified before warehousing.

83. Goods not warehoused in the imported packages, and goods altered or removed except under proper authority, liable to confiscation.

84. Keeper or License-holder liable to a penalty of Rupees 50 if goods be not stowed so as to admit of easy access.

85. Keeper or License-holder failing to produce goods when required, liable to pay the full Duty in addition to a penalty of Rupees 50 for each missing package.

86. Goods entered to be warehoused, liable to confiscation if not duly warehoused, or if fraudulently concealed or removed.

87. Officer in charge of Custom House may cause goods lodged in Warehouse to be opened, examined, and sealed. Goods so sealed not to be re-opened without permission of such Officer.

88. Customs Officers to have access to private Warehouse at business hours, under a penalty of Rupees 1,000, besides cancellation of license.

89. Bonds for Duty on goods deposited in a private Warehouse, to become due seven days after notice of withdrawal of license.

90. Importer to have access to warehoused goods in presence of Customs Officers. If a special Officer be employed for the purpose, Importer to pay the expense.

91. Importer clandestinely gaining access to warehoused goods, liable to penalty of Rupees 1,000.

92. Importer may, with sanction, sort and re-pack warehoused goods, take samples, and destroy damaged goods.

93. Importer not entitled to compensation for loss or injury,
unless occasioned by the wilful act or neglect of Warehouse-keeper or Customs Officer.

94. In case of loss or destruction by unavoidable accident, the Duties may be remitted. In case of damage, Duty to be re-assessed according to actual value.

95. Duty to be on quantity or value registered at importation, with an allowance for ullage or wastage in the case of Wines, &c., or Salt.

96. License-holder liable to a penalty of 5 times the Duty on any goods that may be found deficient, except in the case of Wines, &c., when a special allowance may be made.

97. If goods lodged in private Warehouse exceed the registered quantity, excess to be charged with five times the Duty.

98. Goods not to be removed from Warehouse without a Pass.

99. Application for removing goods to be made in the Form D. 24 hours before intention to remove.

100. If goods be taken out from Warehouse except as provided, bonder shall forthwith pay Duty, and person concerned a penalty of Rs. 1, 000. If the offender be a Customs Officer not on duty and be convicted on prosecution of importer, no Duty shall be payable in respect of goods, and damage shall be repaid by Officer in charge of Customs House.

101. Expenses of carriage, packing, and stowage of goods to be defrayed by Importer.

102. If the rent and dues of a public Warehouse be not paid by the importer monthly, within ten days of presentation of bill, a portion of the goods may be sold for their liquidation.

103. If goods be taken from Warehouse otherwise than for removal to another Warehouse or for exportation, or if not cleared and exported within the prescribed time, import Duty and charges to be demanded.

104. On failure to pay Duty or penalty, the bond may be proceeded upon, or a sufficient portions of goods detained and sold, after ten days, in satisfaction of demand, notwithstanding transfer or assignment

105. Goods may be removed from one Warehouse to another on application made in form E.

106. Warehoused goods may be removed from one Port to another on application to Chief Customs Authority.

107. On removal of warehoused goods from one Port to another, importer to enter into a bond. An account of goods removed to be transmitted to the Port of destination.

108. Importers may be permitted to enter into a general bond for removal of goods from one Warehouse or Port to another.

109. Goods removed to be subject, at port of removal, to same laws as on first importation.

110. Importer may, without payment of Duty, trans-ship goods from one Port to another, on entering into a bond for due arrival and entry at Port of destination. Goods to be treated there as warehoused goods removed. Trans-shipment to be superintended by a Customs Officer.

111. On arrival of goods trans-shipped, they may, on payment of Duty and after entry and examination, be forthwith exported or cleared for home consumption.

112. When goods are removed from a Warehouse, the particulars thereof to be noted on the back of the bond.

113. A register to be kept of all bonds for Duty on warehoused goods, and when goods are removed and the Duties, charges, and penalties paid, the bond to be cancelled and returned.

114. Settlement of Duty on bonded goods not be delayed beyond 3 years.

115. Provisions relating to private Warehouses to apply to the Bengal Bonded Warehouse Association.

EXPORTATION.

116. Order for entry outwards or shipment of export cargo to be obtained, before any goods are put on board, under a penalty of Rupees 1,000.

117. Fifteen working days after period allowed for discharging import cargo, to be allowed for shipment of export cargo of a vessel of 600 tons, and one additional day for every 50 tons in excess; but allowance to be made for the period during which vessel laid up. If goods be shipped during such laying up, Master liable to a penalty of Rs. 1,000, and goods, if not protected by a pass, to confiscation.

118. No goods, except passengers' baggage, to be shipped for exportation on holidays, or at other than appointed times and places, and in presence of Customs Officers after entry and clearance, under a penalty of Rs. 1,000 and confiscation.

119. Customs Officer may open package and examine.

120. Officers may be deputed to board vessels clearing from Port, and remain on board by day and by night. Shipment of cargo may be ordered without the presence of an Officer.

121. Master of vessel refusing to receive Officer, liable to a penalty of Rs. 500 per day.

122. Master bound also to receive on board one servant of Officer, and to provide accommodation and shelter for both, under a penalty of Rs. 500.

123. Goods not to be shipped until exporter deliver shipping bill.

124. Warehoused goods, and goods subject to Excise Duties, or entitled to drawback, or exportable under restrictions, not to be exported without a security-bond.

125. Goods for shipment to be accompanied with a boat-note, to be delivered to the Customs Officer on board or the Master of the vessel, on requisition, under a penalty of Rs. 500.

126. No vessel to depart without a Port-clearance, under a penalty of Rs. 1,000 for departing and Rs. 500 for attempting to depart. Penalty may be levied at any Port in British India, and certificate of Chief Officer of Customs to be deemed sufficient prima facie proof.

127. Pilot not to take charge of vessel without production of Port-clearance, under a penalty of Rs. 1,000.

128. Manifest in duplicate, and Certificates, to be delivered by Master at time of application for Port-clearance. One copy of Manifest to be countersigned and returned.

129. Port-clearance may be refused, if Manifest and Certificates are not produced, and Port-dues and other charges paid, or their payment guaranteed.

130. Goods liable to import Duty, or taken from a Warehouse for exportation, or entitled to drawback on exportation, enumerated in Manifest and not duly shipped, or certified as short-shipped, liable to confiscation Master liable to a penalty of Rs. 50 for each package not entered in Manifest, and to a penalty of three times the value of any goods landed at other than place of clearance.

131. In addition to ordinary Duty, a charge of 2 per cent. upon value to be made on all goods (except Treasure and Opium) entered for shipment after grant of Port-clearance.

132. Duty on goods not shipped, or relanded, to be returned, on application made before departure of vessel.

133. Station may be appointed at which outward bound vessels shall bring to for landing Customs Officer or further examination.

134. Master not bringing to at appointed Station, liable to a penalty of Rs. 1,000, which may be levied at any Port. Certificate of Chief Officer of Customs of Port of departure sufficient prima facie proof of failure to bring to.

135. Goods may be landed for re-export if vessel return to Port without having discharged cargo, or enter another Port ; and such goods may be re exported free of Duty if lodged in charge of a Customs Officer. Charges of custody to be borne by exporter.

136. If a vessel, returning to Port after Port-clearance, be entered under Import Rules, Export Duty on goods to be refunded, and drawback reclaimed. If goods liable to drawback be found deficient, Master liable to pay value thereof.

DRAWBACK.

137. Upon the re-exportation, within two years, of imported goods (except Salt, Opium, and Ship's Stores) 7-8ths of Duty to be repaid as drawback. Chief Customs Authority may prohibit any reservation of Import, paid on articles chargeable with Export Duty.

138. Claim to receive drawback must be made at time of re-export, and payment demanded within one year from shipment.

139. If amount of drawback claimed exceed value of goods, drawback not to be allowed and goods to be confiscated.

140. No drawback on goods not included in Manifest.

141. No drawback on goods exported from one Port in India to another, nor after three years from first importation.

142. Person claiming drawback, to make a declaration of actual exportation, and of the right to drawback.

143. Goods on which drawback has been paid, liable to confiscation if not duly exported ; and persons concerned in un-shipping or relanding such goods, liable to pay three times the value of the goods, or a penalty of Rs. 1,000.

144. Drawback of entire Duty allowed for wine intended for consumption of Naval Officers according to scale.

145. Person claiming drawback to state particulars. Such wine to be shipped under care of Customs Officers.

146. Such wine may with permission be transferred, trans-shipped, or relanded and warehoused, and may be cleared for home consumption on re-payment of Duties.

147. Such wine liable to confiscation, if not laden in proper vessel or unladen without permission.

148. Provisions and Stores for the Navy to be passed free of Duty, and where Duties have been paid drawback to be allowed.

COASTING TRADE.

149. Except Opium, Salt, and English-made Spirits ; goods imported and trans-shipped without payment of Duty ; and goods removed in bond, no Duties to be levied on goods carried in Coasting vessels.

150. No Drawback for goods shipped in Coasting vessels.

151. Local Government may make Rules for regulating the carriage of goods coastwise. Master of a Coasting vessel contravening such Rules, or touching at any Foreign Port without declaring the same at the next Indian Port, liable to a penalty of Rs. 1,000 and to pay double Duty in addition to the ordinary Duty.

152. No goods, except passengers' baggage, to be unshipped from any Coasting vessel, or be shipped for carriage coastwise, on Sundays or holidays, nor except at appointed hours and places and in presence of Customs Officers, under a penalty of Rs. 500 and confiscation of goods.

153. Master of vessel to keep a Cargo book and to enter therein certain particulars. Cargo book to be open to inspection of Customs Officers, and goods not corresponding with entries therein liable to confiscation. Master liable to a penalty of 500 Rs. for not correctly keeping such book or not producing it on demand.

154. Before leaving Port, Master of Coasting vessel to deliver to Officer in charge of Custom House an account in duplicate in Form G., under a penalty of Rs. 500 if the account be false.

155. A bond may be required from owner for due arrival at Port of destination. If Certificate of arrival be not produced within prescribed time, owner liable to pay double Export Customs Duties on Cargo.

156. A general pass for lading and unlading of a Coasting steam vessel may be granted, and revoked on notice.

157. Pass to be delivered within 24 hours of arrival at Port, and before unlading any goods under a penalty of Rs. 200.

158. Goods subject to Excise Duty not to be unladen without permission.

159. Goods laden on, unladen from, or found in, a Coasting vessel contrary to provisions of this Act, liable to confiscation, and Master to a penalty of Rs. 500.

160. Customs Officer may board Coasting vessel and demand production of documents. Master refusing to deliver document liable to a penalty of Rs. 200.

CARGO BOATS.

161. Goods found in unlicensed Cargo Boat after prohibition of the use of such boats, liable to confiscation, unless covered by special permit.

162. Cargo boats to be licensed and registered by Chief Officer of Customs in Ports brought under the operation of the preceding Section.

SPIRITS.

163. Spirits manufactured after the English method may be removed from distillery for exportation under bond: but such spirits must be exported within 4 months, or if exported to any other Indian Port proof of the landing and of the payment of Duty there must be furnished within 6 months. Such periods may be extended by the Chief Officer of Customs.

164. Spirits so removed to be taken under passes from distillery direct to Custom House.

165. Spirits to be gauged and proved by Officer of Customs previous to Shipment. Drawback and settlement of bond to be regulated by such gauge and proof.

166. After setting off allowance for ullage and wastage, Duty recoverable upon difference between quantity of Spirits passed from distillery and that ascertained by gauge and proof.

167. Drawback to be allowed on spirits exported under Section 124 within one year.

168. No drawback on spirits exported from one Indian Port to another, but such spirits may be exported under bond, which shall be cancelled on production of Certificate of Customs Officer at Port of importation.

169. Spirits exported under bond from one Indian Port to another, to be chargeable at Port of destination with ordinary Customs Duties.

170. Rum Shrub and cordials to be charged with Duty according to quantity of spirits used in their preparation, and to be exported under same rules: bond to be in Form H.

171. Spirits brought for exportation under bond may be removed for local consumption on payment of Excise Duty.

172. No drawback to be allowed, nor Duty remitted, unless spirits be shipped in vessel having an Officer on board, such spirits not to be relanded without a special pass.

173. Spirits relanded without a special pass liable to confiscation, and person attempting so to re-land, to a penalty of Rs. 500.

AGENTS.

174. Person acting as Agent for the entrance and clearance of vessels and goods without authority, liable to a penalty of Rs. 500.

175. Customs Officer may require written authority from person acting on behalf of another. Clerk or servant authorized to act as agent to be identified, and written authority to be deposited authorizing payment of drawbacks, refunds, &c. to such person on production of receipts.

DUPLICATE BILL OF ENTRY, &c.

176. Importer or Exporter to deliver, if required, a duplicate bill of entry or shipping bill.
177. Under a penalty of Rs. 200.

TAKING OF SAMPLES.

178. Officer in charge of Custom House may take samples, returning or accounting for the same.

MISCELLANEOUS PROVISIONS.

179. The Local Government, with sanction, may from time to time fix a value for articles liable to ad valorem Duty.

180. Where no value has been fixed, the value to be the wholesale cash price, less trade discount and Import Duty.

181. Person entering timber or wood, to pile and sort the same at his own expense for measurement; no allowance to be made for interstices.

182. Marine Stores may be trans-shipped from one vessel to another of the same owner without payment of Duty.

183. Ship's stores warehoused at time of importation, and articles of Indian produce or manufacture, may be shipped, free of duty, for consumption on board of vessel proceeding to Foreign Port, provided the voyage be of longer duration than 30 days.

184. In case of dispute as to proper rate of Duty, the amount demanded to be deposited pending decision.

185. Duties short-levied or erroneously refunded may be demanded within six months; and if demand be not complied with, Customs Officer may refuse to pass any goods of such person.

186. No duties or charges erroneously levied to be returned, unless claim be made within 5 months of payments.

187. All expenses incurred in passing goods through Custom House, to be borne by importer or exporter.

188. Importer or exporter not entitled to claim compensation for loss or injury to goods, unless occasioned by some wilful act or neglect of a Customs Officer.

189. Chief Customs authority may fix the rate to be charged on goods left on Custom House wharf or premises.

190. Act n t to interfere with the levy of anchorage or harbour dues, or of special Duties on Opium, Tobacco, Gunja, Spirit, or Salt.

191. Duplicates of Custom House Documents may be granted, and amendments made thereon, on payment of a fee.

192. No Customs Officers to be compelled to serve on juries or inquests.

OFFENCES AND PENALTIES.

193. Goods unlawfully discharged from or received by a tug-steamer or pilot-vessel liable to confiscation, and Master of such steamer or vessel to a penalty of Rs. 1,000.

194. Person unlawfully landing or shipping goods, and person found in a vessel liable to confiscation under Section XIII., liable to a penalty of Rs. 1,000.

195. Vessel found in ballast without a due account of the cargo brought, liable to confiscation.

196. Tackle, &c. to be included in confiscation of vessel; and when goods are confiscated, the packages and their contents, as well as the conveyances used, are to be included therein.

197. Port-clearance may be refused until penalty due from owner be paid; and goods may be detained until payment of penalty due from person passing them.

198. Persons reasonably suspected of an offence may be detained by any Customs Officer.

199. Vessel and goods liable to confiscation may be seized, and person liable to be detained may be detained in any place.

200. Vessel and goods liable to confiscation to be delivered to proper Officer.

201. Person detained to be taken before nearest Magistrate or Officer in charge of Custom House.

202. Person so taken before a Magistrate may be detained or admitted to bail.

203. Person not detained at time of committing offence, or escaping after detention, liable at any time to be detained and taken before a Magistrate.

204. Persons employed on the crew of any of H. M's Ships, when detained under this Act, to be secured on board by Commanding Officer until warrant be procured.

205. In cases of seizure or detention, Officer bound, if required, to give in writing a statement of reasons.

206. Goods liable to confiscation, if seized on suspicion of being stolen, to be kept at Police Station for enquiry, and on conclusion of enquiry to be conveyed to the nearest Custom House, under a penalty of Rupees 100.

207. Conveyance may be searched, on reasonable grounds, for smuggled goods.

208. Magistrate may, on application, issue a search warrant for dutiable or prohibited goods, to be executed as a search warrant under the Code of Criminal Procedure.

209. Customs Officer may search any person on reasonable grounds. If person searched deny having dutiable or prohibited goods and such be found, they shall be liable to confiscation and person searched to a penalty of 3 time the value thereof.

210 Persons about to be searched may demand to be taken before nearest Magistrate or officer in charge of Custom House; who may discharge such person, if there be no reasonable ground for search. Females to be searched by females only.

211. Customs Officer requiring person to be searched without reasonable ground, liable to a penalty of Rupees 100.

212. Customs Officer guilty of wilful breach of the provisions of this Act liable to simple imprisonment for two years, or fine, or both.

213. Customs Officer committing or conniving at frauds on Customs Revenue, liable to imprisonment of either description for two years, or fine, or both.

214. No action or proceeding against Customs Officer to be commenced without a month's previous notice, nor after three months from cause of action.

215. Person obstructing Customs Officer liable to imprisonment of either description for six months, or a fine of Rs. 1,000, or both.

216. Person making a false declaration; or counterfeiting, falsifying, or destroying any document, seal, or signature; or refusing to produce document or answer questions, liable to a penalty of Rs. 1,000.

217. Person making declaration of the value of goods, without authority to do so, liable to a penalty of Rs. 1,000.

218. Unless otherwise provided, Officer in charge of Custom House may adjudge confiscations penalties, or increased rates of Duty.

219. Local Government may empower any Customs Officer to adjudge confiscation, penalties, and increased rates of Duty—to the extent, if a Deputy, of goods of the value of Rs. 1,000 and of a penalty of Rs. 100, and if an Assistant Collector, of goods of Rs. 100 value and of a penalty of Rs. 10.

220. Adjudications made by Customs Officers to be subject to appeal to Chief Customs Authority.

221. Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

222. Offences not cognizable under Section 218 may be adjudicated in a summary way by a Magistrate.

223. Chief Customs Authority may remit or commute penalties.

224. Penalties adjudged by Customs Officers may be levied by sale of goods in charge. If they cannot be so realized, they may be recovered by any Magistrate as if adjudged by himself.

225. Limit of imprisonment in default of payment of penalty adjudged by a Magistrate. Penalties may at any time be enforced by distress and sale.

226. Imprisonment in default of payment of penalty, to terminate on payment or recovery thereof.

227. Imprisonment to terminate, when the portion suffered is not less than proportional to the penalty remaining unpaid.

228. Property confiscated under Sections 218 or 219 to vest in Her Majesty.

229. Out of the proceeds of confiscations and penalties, Chief Customs Authority may grant rewards.

230. Act to come into operation on 1st March 1863.

An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

Preamble.

Whereas it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended; It is enacted as follows :—

Title.

I. This Act shall be called the Consolidated Customs Act.

II. Repealed by Act XIV. of 1870.

Interpretation.

III. The following words and expressions in this Act have the meanings, hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

"British India."

1. The words "British India" denote the Territories that are or shall become vested in her Majesty by the Statute 21 and 22 Vic., c. 106 (entitled "An Act for the better government of India"), except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Local Government."

2. The words "Local Government" denote the persons authorized to administer Executive Government in any part of British India; or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall, by an order of the Governor-General in Council published in the Official Gazette, be authorized to exercise the powers vested by this Act in a Local Government.

"Chief Customs Authority of the Presidency or place."

3. The words "Chief Customs Authority of the Presidency or place," denote the persons authorized to exercise, under any Local Government, the chief control in the Department of Customs in any Presidency or place.

"Chief Officer of Customs of the Port."

4. The words "Chief Officer of Customs of the Port" denote the Executive Officer of highest rank in the Department of Customs in any Port.

"Officer in charge of the Custom House."

5. The words "Officer in charge of the Customs House" include every Officer of Customs who is for the time being authorized to have separate charge of a Customs House.

"Magistrate."

6. The word "Magistrate" includes every Officer exercising the powers of a Magistrate.

"Free Port."

7. The words "Free Port" denote any port at which no Duties of Customs are leviable.

"Foreign Port."

8. The words "Foreign Port" include any Port situated beyond British India and any Free Port.

9. The words "Foreign Goods" include all goods not produced or manufactured in British India. "Foreign goods."

10. The word "Vessel" includes any thing made for the conveyance by water of human beings or property. "Vessel."

11. The words "Coasting Vessel" denote any Vessel plying between one Port in British India not being a Free Port, and another Port in British India not being a Free Port, without touching at any intermediate Foreign Port. "Coasting Vessel."

12. The words "Master or Commander" include every person, except a Pilot, having command or charge of any vessel. "Master or Commander."

13. The word "Warehouse" denotes any place approved, appointed, or licensed for the keeping and securing of goods entered to be warehoused without payment of Duty on the first entry thereof. "Warehouse."

14. Words importing the singular number include the plural number, and words importing the plural number include the singular number. Number.

15. Words importing the masculine gender include females. Gender.

GENERAL RULES.

IV. It shall be competent to the Chief Customs Authority of any Presidency or place, with the sanction of the Local Government, to make and issue rules for regulating the practice and proceedings of Officers in the Department of Sea Customs; and from time to time to add to, alter, or revoke such rules or any of them; provided that no rule so made shall be inconsistent with any provision of this Act, or of any other law for the time being in force. Any rules made under this Section shall be published in the Official Gazette. Making, issuing and publishing of rules.

V. Any rules made under the last preceding Section may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House; and for the landing, shipping, and clearing of parcels forwarded by her Majesty's or other mails, or by other regular packets and passenger vessels. When any baggage or parcels are made over to an Officer of Customs for the purpose of being landed, a fee of such amount as the Local Government shall from time to time direct, shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House. Also rules respecting passengers' baggage and mails.

VI. If any dispute shall arise between any Officer of Customs, and any Master or Commander of a vessel, or inporter, exporter, owner, or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating to the importation, exportation, or warehousing of any goods, or to the levy of any Duty or penalty thereon, or to any seizure or forfeiture thereof, the Chief Customs Authority of the Presidency or place in which such dispute shall have arisen shall settle the same, subject to an appeal to the local Government, acting under the general instructions of the Governor-General of India in Council. Appeals how and by whom to be adjudicated.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &C.

VII. The local Government of every Presidency or place in which Duties of Sea Customs are levied, shall appoint such persons as it may deem proper to exercise the powers conferred and to perform the duties imposed by this Act. Every person so appointed shall be liable to be suspended or dismissed by the local Government which appointed him. Local Government to appoint necessary Officers.

VIII. The local Government may delegate to any Authority within its jurisdiction in the Department of Customs, the whole or any portion of the powers vested in it by the last preceding Section. Every subordinate Officer who is appointed by virtue of such delegated power, shall be liable to be suspended or dismissed by the Authority which appointed him. Local Government may delegate its powers to other Customs authority. Subordinate officers liable to be suspended or dismissed by the Authority appointing them.

IX. At any Port or place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the Officers subordinate to such Collector, shall be deemed to be the proper Officers for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs. The Collector of Revenue of District to perform duties of Customs Officer, where there is no separate Customs Officer.

X. The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, the places within such Presidency or place which alone shall be Ports for the shipment and landing of goods; and may declare the limits of such Ports; and may appoint proper places therein to be Wharves for the landing and shipping of goods, and may declare the bounds and extent of any such Wharf; and may from time to time alter the limits of any Port or Wharf; and may alter the name thereof. Every Port and Wharf which shall Local Government may from time to time appoint Ports and Wharves for shipment and landing, and may alter, &c.

Existing Ports and Wharves to continue in use until otherwise ordered.

have been declared and appointed, or which shall be existing as such, at the date on which this Act shall come into operation, shall continue to be such Port or Wharf, until the local Government shall otherwise declare by notice in the Official Gazette.

Governor-General in Council may declare Free Ports.

XI. The Governor-General of India in Council may from time to time declare by notice in the Official Gazette, that any Port in British India shall be a Free Port at which no Duties of Customs shall be levied on the importation or exportation of goods by Sea.

Also that an Indian Port not in British India shall be regarded as a British Indian Port for Certain purposes

XII. The Governor-General of India in Council may from time to time declare, by notice in the Official Gazette, that any Port on the Continent of India, though such Port be situated beyond British India, shall be regarded as a British Indian Port for the purposes of Section XVIII., of Section CXLI., and of Sections CXLIX., to CLX. of this Act, in so far as the said Sections or any of them are capable of being applied with respect to such Port; and may in like manner from time to time, by notice in the Official Gazette, revoke or suspend the operation of any such declaration. So long as any such declaration shall be in force in respect to any Port, goods exported thereto from any Port in British India, or imported therefrom at any Port in British India, shall, as regards warehousing, drawback, and all other matters for which provision is made in any part of this Act, be treated in all respects like similar goods exported from one Port in British India to another such Port, or imported at one Port in British India from another such Port.

Penalty for landing or shipping goods at any unauthorized Port.

XIII. If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek, or arm of the Sea for the purpose of being landed or shipped, at any Port or place which, at the date of such landing, shipment, attempt, or bringing, shall not have been declared to be or shall not be existing as a Port for the landing and shipment of goods, such goods shall be liable to confiscation, together with any ship, boat, carriage, or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

Local Government may declare Warehousing Ports and places.

Existing Ports to continue in use, until otherwise declared.

XIV. The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, that any Port or place within such Presidency or place shall be a Warehousing Port or place for the purposes of this Act; and every Port which, at the date on which this Act shall come into operation, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the local Government shall otherwise declare by notice in the Official Gazette.

Approval appointment, and licensing of Warehouses.

Existing Warehouses to continue in use until otherwise ordered.

XV. In any Warehousing Port or place the Chief Customs Authority of the Presidency or place may from time to time approve, appoint, or license Warehouses or places of security wherein goods may be deposited without payment of Duty on the first entry thereof; and every Warehouse which, at the date on which this Act shall come into operation, shall have been approved, appointed, or licensed as such, shall continue to be a Warehouse under this Act, until otherwise ordered by such Chief Customs Authority.

Levy of and Exemption from Customs Duties.

Import Customs.

XVI. Duties of Customs shall be levied on goods imported by sea into any Port in British India, not being a Free Port, from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export Customs.

XVII. Duties of Customs shall be levied on goods exported by Sea from any Port in British India, not being a Free Port, to any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

No Duties on goods carried from one Indian Port to another not a Free Port.

Proviso as to Opium Salt, and Spirits.

XVIII. No Duties of Customs shall be levied on goods carried by Sea from any Port in British India, not being a Free Port, to any other Port in British India, not being a Free Port. Provided that nothing in this Section shall apply to Opium or Salt, or to Spirits manufactured after the English method.

Local Government in certain cases may authorize exemption from payment of Duty

XIX. It shall be lawful for the local Government to authorize the Chief Customs Authority of any Presidency or place, to exempt, by special order, from the payment of Duty, under stated circumstances of any exceptional nature, any goods on which Duties of Customs are directed to be levied by any law for the time being in force.

Baggage in use.

XX. It shall be lawful for the Officer in charge of a Custom House to pass free of Duty, at his discretion, any baggage in actual use; and for this purpose to determine, subject to such general rules as may from time to time be made under Section IV. of this Act, whether any goods shall be treated as baggage in actual use, or as goods subject to Duty.

GENERAL PROVISIONS.

XXI. The importation into or exportation from British India of the goods enumerated in the following Clauses is prohibited:— Prohibitions and restrictions.

1. Any book printed in infringement of any law in force in British India on the subject of copy-right, when the proprietor of such copy-right, or his agent, shall have given to the Chief Customs Authority of the Presidency or place a notice in writing that such copy-right subsists, and a statement of the date on which it will expire.

2. False or counterfeit coin; or coin which purports to be Queen's coin of India, but is not of the established standard in weight or fineness.

Any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article.

XXII. The importation into British India of Arms or Ammunition, except under a license from the Governor-General of India in Council, or from some Officer authorized in that behalf by the Governor-General of India in Council, is prohibited. Nothing in this Section shall apply to fowling pieces, and sporting powder, *bonâ fide* imported by any person in reasonable quantities for his own private use. Importation without License of Arms and Ammunition, prohibited. Proviso.

XXIII. It shall be lawful for the Governor-General of India in Council from time to time, by notice in the Official Gazette, to prohibit or restrict the importation or exportation of any particular class of goods. Governor-General may prohibit or restrict importation or exportation of goods.

XXIV. If any goods, the importation or exportation of which is prohibited or restricted, or shall hereafter be prohibited or restricted, be imported into or exported from British India contrary to such prohibition or restriction; or if any attempt be made so to import or export any such goods; or if any such goods be found in any package produced to any Officer of Customs as containing no such goods; or if any such goods, subject to a Duty or restriction in respect of importation or exportation, be found, either before or after landing or shipment, to have been concealed in any manner on board of any vessel within the limits of any Port in British India; or if any goods, the exportation of which is or shall be prohibited or restricted, be brought to any Wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,—such goods, together with any goods which shall be found packed with or used in concealing them, shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand Rupees. Goods imported contrary to prohibition liable to confiscation and persons concerned to penalty.

XXV. It shall be lawful to import into, or to export from, British India any goods, the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor-General of India in Council, for the time being in force; and any dutiable goods, the importation and warehousing of which is not prohibited or restricted by any such law or notice, may, under the rules for the warehousing of goods in force at the Port of importation, be warehoused without payment of Duty on the first entry thereof. Importation, exportation, and Warehousing.

XXVI. On the importation into, or exportation from, any Port in British India of any goods not liable to Duty, or liable to fixed Duties according to weight or quantity only, or to Duties on fixed Tariff valuations, the owner, consignee, importer, exporter, or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief. In case of doubt, it shall be lawful for the Officer in charge of the Custom House to require any such person, or any other person who shall be in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it shall be in his power to furnish. And it shall thereupon be the duty of such person to produce any such document or to furnish any such information so required by such Officer. Owner &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice &c.

XXVII. If, upon the examination of any goods entered for Duty and chargeable with Duty upon the value thereof, but for which a specific value has not been fixed by the local Government with the sanction of the Governor-General of India in Council, it shall appear to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of Duty than that to which they would be subject according to the value thereof as stated in the bill of entry or shipping bill, it shall be lawful for such Officer to detain such goods. In every such case the detaining Officer shall forthwith give notice in writing, to the person entering the goods, of their detention and of the value thereof as estimated by him; and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of Govern- Under-valued goods how to be dealt with.

ment. If the goods be retained for the use of Government, the Officer in charge of the Custom House shall cause the full value at which such goods were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if such goods had been transferred by ordinary sale, and shall then cause the goods to be sold by public auction after due notice in the Official Gazette. If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the Duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion, not exceeding one-half of the overplus, shall, at the discretion of the Chief Officer of Customs of the Port, be payable to the Officer who detected the under-valuation of the goods. Nothing in this Section shall prevent the Chief Officer of Customs of the Port, when he shall have reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, as regards valuation, on payment of such increased rate of Duties, or on such other terms, as he may determine. When goods are retained under this Section on account of Government, the Duties payable thereon shall in no case be levied from the person entering such goods.*

Goods brought to be passed through the Custom House, liable to confiscation in case of discrepancy, &c.

XXVIII. If it be found, when any goods are entered at or brought to be passed through a Custom House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them; or that the contents thereof have been wrongfully described in such entry or application as regards the denominations, characters, or circumstances according to which such goods are chargeable with Duty, or are being imported or exported; or that the contents of such packages have been wilfully mis-stated in regard to sort, quality, or quantity; or that goods not stated in the entry or application have been fraudulently concealed in or mixed with the articles specified therein, or have been packed to deceive the Officers of Customs, such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

Date of importation how to be determined.

XXIX. If upon the first levying, repealing, enhancement, or reduction of any Duty, or upon any charge of any fixed valuation for Duty, or upon the first permitting, prohibiting, or restricting of any importation, it shall become necessary to determine the exact date on which an importation of goods had effect, such date shall be deemed to be that on which the goods were actually entered for home consumption at the Custom House.

Date of exportation how to be determined.

XXX. If, in like manner, it shall become necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the Custom House.

Re-imported articles of country produce to be deemed Foreign.

Proviso.

XXXI. If goods produced or manufactured in British India be imported into any Port in British India from any Foreign Port or place, such goods shall be treated as Foreign goods, and shall be liable to all the Duties, conditions, and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof. Provided that, if such importation shall take place within three years after the exportation of such goods, and it shall be proved, to the satisfaction of the Officer in charge of the Custom House, that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority of the Presidency or place shall, from time to time, direct. Goods, for which any drawback of Excise shall have been received on exportation, shall in all cases be treated as Foreign goods, unless the Chief Customs authority of the Presidency or place shall in any case otherwise direct by special order.

Stations may be appointed for Customs Officers to board and also land from ship.

XXXII. The Chief Customs Authority of any Presidency or place may, from time to time, appoint, in any Port in British India, stations or places at which vessels, arriving at or departing from such Port, shall bring to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port, small vessels, not brought into Port by Pilots, shall be required to anchor or moor. The Chief Officer of Customs of any such Port may, at any time, station Officers of Customs on board of any vessel, while such vessel remains within the limits of the Port. Any person infringing any rule or order made under this Section by the Chief Customs Authority of any Presidency or place, or by the Chief Officer of Customs of any Port, shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for infraction.

* See Act XVII. of 1867.

IMPORTATION.

XXXIII. It shall be lawful for the local Government of any Presidency or place, by notice in the Official Gazette, to fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any Foreign Port or place, to pass, until the Master or Commander thereof shall have delivered to the Pilot, Officer of Customs, or other person duly authorized to receive the same, a Report or Manifest containing a true specification of all goods imported in such vessel, with such particulars (as to the name, nation, tonnage, cargo, and Ports of lading of such vessel), and made out in such form, as shall, from time to time, be directed by the Chief Customs Authority of the Presidency or place in which such River or Port is situated.

Places may be fixed by the local Government beyond which inward bound vessels are not to proceed until a Manifest has been delivered.

XXXIV. If, in any River or Port wherein a place has been so fixed by the local Government, the Master or Commander of any vessel arriving from a Foreign Port or place shall wilfully omit, before passing beyond such place, to deliver a Report or Manifest in the form and containing the particulars indicated in the last preceding Section, in so far as they are applicable to his ship, cargo, and voyage; or if any Report or Manifest so delivered shall not contain a true specification of all goods imported in such vessel; such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

On failure Masters to be liable to penalty.

XXXV. If, in any River or Port wherein a place has been fixed by the local Government under Section XXXIII. of this Act, the Master or Commander of any vessel arriving from any Foreign Port or place shall remain outside or below the place so fixed, such Master or Commander shall, nevertheless, so soon as the vessel shall anchor, deliver to the Pilot, Officer of Customs, or other person authorized to receive the same, a Report or Manifest as provided in the said Section. If any Master or Commander so remaining outside or below any such fixed place, shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver his Report or Manifest, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for not reporting when vessel anchors below the reporting Station.

XXXVI. If, after any vessel, arriving from any Foreign Port or place, shall have entered any Port in British India at which a Custom House is established, and in which a place shall not have been fixed under Section XXXIII of this Act, the Master or Commander of such vessel shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver, as required by that Section, his Report or Manifest to the Pilot, Officer of Customs, or other person authorized to receive the same, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for not delivering Report or Manifest within 24 hours after anchoring.

XXXVII. If any Pilot, Officer of Customs, or other person authorized to receive a Report or Manifest from any Master or Commander of a vessel, shall refuse so to do, he shall, in every such case, be liable to a penalty not exceeding five hundred Rupees.

Penalty for Pilot, &c., not receiving Report or Manifest.

XXXVIII. If any vessel, arriving from any Foreign Port or place at any Port in British India, shall, after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of Act XXII. of 1855 (*for the regulation of Ports and Port-dues*), directly to some other place of mooring or unlading, the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees, and the vessel shall not be allowed to enter until the penalty is paid.

Penalty for vessel removing from place of mooring, or unlading, without authority.

XXXIX. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint stations at which any vessel, arriving at any Port in such Presidency or place from any Foreign Port or place, may be required to bring to for the boarding of such vessel by an Officer of Customs deputed by the Officer in charge of the Custom House at such Port,

Stations may be appointed for Officers of Customs to board vessels arriving from Foreign ports.

XL. If the Master or Commander of any vessel, arriving at any Port in British India from any Foreign Port or place, shall, when so required under the 1st preceding Section, fail to bring to at any such station as shall have been appointed by the Chief Customs Authority of the Presidency or place for the boarding of vessels by an Officer of Customs, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for not bringing to at boarding Station.

XLI. It shall be competent to the Officer in charge of the Custom House at any Port in British India, at any time to depute, at his discretion, one or more Officers of Customs to board any vessel arriving at such Port. Every Officer of Customs so sent, shall remain on board of such vessel by day and by night, until it be otherwise ordered by the Officer in charge of the Custom House. Provided, that it shall be competent to the Officer in charge of the Custom House to direct whenever he may see fit so to do, and on such conditions as he may see fit to impose,

Officer in charge of Custom House may depute Officer of Customs to board ships.

Proviso.

that the discharge of cargo may take place without the presence of an Officer of Customs.

Penalty for not receiving Officer of Customs on board.

XLII. Every Master or Commander of a vessel, who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to enter until the penalty is paid.

Servant to be received with the Officer.

Accommodation of Officer and Servant.

XLIII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

Customs Officers to have free access to every part of the ship, and may seal and secure goods.

Officer in charge of Custom House may authorize opening of locks.

XLIV. Every Officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and shall have power to fasten down any hatchway or entrance to the hold, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board of such vessel. If any box, place, or closed receptacle in any such vessel be locked and the keys be withheld, such Officer shall report the same to the Officer in charge of the Custom House, who may thereupon issue to the Officer on board, or to any other Officer under his authority, a written order to search; and, on production of such order, it shall be competent to the Officer bearing the same to require that any place, box, or closed receptacle in such vessel be opened in his presence; and, if it be not opened upon his requisition, to break the same open; and any goods that shall be found concealed therein, and that shall not be duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

Goods found concealed liable to confiscation.

Penalty for Master resisting search, &c.

XLV. If any Master or Commander of a vessel shall refuse to allow such vessel, or any box, place, or closed receptacle in such vessel, to be searched, when so required by an Officer of Customs bearing a written order to search; or if an Officer of Customs shall place any lock, mark, or seal upon any goods, and such lock, mark, or seal shall be wilfully opened, altered, or broken, before due delivery of such goods; or if any such goods shall be secretly conveyed away; or if any hatchway or entrance to the hold, after having been fastened down by an Officer of Customs, shall be opened without his permission: in every such case the Master or Commander of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand Rupees.

Bulk not to be broken until Manifest &c., delivered and ship entered at Custom House.

XLVI. No vessel arriving in any Port in British India from any Foreign Port or place, shall be allowed to break bulk until a Report or Manifest shall have been delivered as hereinbefore provided; nor until a copy of such Report or Manifest, together with an application for entry inwards, shall have been presented to the Officer in charge of the Custom House, and order shall have been given thereon by such Officer for the discharge of the cargo. The Officer in charge of the Custom House may refuse to give such order, until any Port-clearance, cockett, or other paper, which he shall know or have reason to believe had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him. Nothing in this Section shall prevent an Officer in charge of a Custom House from granting, on receipt of the original Report or Manifest, and prior to the entry of the vessel at the Custom House, a special pass, under such rules as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place for the un-shipping of Bullion or Treasure.

Master, if required, to deliver Bill of lading, &c., to Officer in charge of Custom House.

Penalty for false entry, fraudulent alteration, etc.

XLVII. The Master or Commander of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Port in British India, deliver to the Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew and voyage as shall be put to him by such Officer. If any such bill of lading or copy thereof shall be false; or if any such bill of lading or copy shall have been altered with fraudulent intent; or if the goods expressed in any such bill of lading or in any bill of lading of which a copy shall be so produced, shall not have been *bonâ fide* shipped on board of such vessel; or if any such bill of lading so produced, or any bill of lading of which a copy shall be so produced by any such Master or Commander, shall not have been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped; or if any part of the cargo shall have been stayed, destroyed, or thrown overboard, or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Officer in charge of the Custom House; in

every such case the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees.

Goods not to leave ship unless entered in Manifest. Goods not agreeing in description and quantity with entry in Manifest, liable to confiscation, or extra Duty.

XLVIII. No goods shall be allowed to leave any vessel, unless they be duly entered in the Report or Manifest of such vessel. If any goods be found on board in excess of those entered in the Report or Manifest, or not corresponding with the specification therein contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of Duty as the Chief Customs Authority of the Presidency or place shall direct.

Penalty for not being able to account for missing or deficient package, etc.

XLIX. If any goods entered in the Report or Manifest shall not be found on board of the vessel, or if the quantity found be short, and if such deficiency be not accounted for to the satisaction of the Officer in charge of the Custom House, the Master or Commander of such vessel shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of Duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding five hundred Rupees for every missing or deficient package of unknown value.

Amendment of obvious errors, etc.

L. Nothing contained in the two Sections last preceding shall be construed to prevent any Officer in charge of a Custom House from permitting the Master or Commander of any vessel to amend any obvious error, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary Report or Manifest. But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House; who, if he decide to receive any such amended or supplementary Report or Manifest, may levy thereon such fee as the Chief Customs Authority of the Presidency or place shall from time to time direct.

Period to be allowed for landing import Cargo.

LI. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs) for the landing of import cargo from such vessel. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred. If the period occupied in the landing of import cargo be in excess of that so allowed, the vessel shall be charged with the expense of the Officer of Customs, at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period.

Consequence of exceeding same.

LII Repealed Act by XVII. 1869.
LIII. Do. do.
LIV. Do. do.

Goods may be landed at any time after arrival, with consent.

LV. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master or Commander of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the landing of such package or parcel. If any package or parcel so carried to the Custom House shall remain unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master or Commander may give such notice as is provided in Section LII. of this Act, and the Officer in charge of the Custom House shall thereupon be bound to hold such package or parcel as provided in the said Section.

Procedure, if Duties not paid within four months after entry of vessel.

LVI. If the Duties chargeable upon any goods carried to the Custom House under the provisions of any of the four Sections last preceding, together with the freight, primage, charges of landing and removal, rent, and other charges, to which such goods shall be liable, shall not be paid within four months from the date of entry of the vessel, or if such goods shall not be duly warehoused within such period, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied; first, to the payment of freight, primage, and general average; next, to the payment of Duties; and then to the payment of other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made. If any such goods be of a perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner. Nothing in this Section shall be held to authorize the passing for home consumption of any dutiable goods without payment of Duties of Customs thereon.

Goods, if not cleared within two months from the date of landing, to be sold.

LVII. If any goods be not cleared for home consumption or for Warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House shall direct, such goods may,

after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of Duties and other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same ; provided that such application be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made.

Disposal of the proceeds.

Goods not to be landed on Sundays, Holidays, etc., without permission; and only within fixed hours, etc.

LVIII. Except with the written permission of the Officer in charge of the Custom House no goods, with the exception of passengers' baggage, shall on any Sunday, or on any Holiday or day on which the discharge of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Port in British India from any Foreign Port or place ; nor, except with such written permission, shall any goods be so discharged on any day, except between such hours as the Chief Customs Authority shall, from time to time, appoint by notice in the Official Gazette ; nor without the presence or authority of an Officer of Customs. Any Master or Commander of a vessel who shall cause or suffer any goods to be removed contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding one thousand Rupees ; and all goods so unauthorizedly removed shall be liable to confiscation.

Penalty.

Goods removed from ship and not forthwith landed, to be liable to confiscation.

LIX. If any goods shall be removed from on board of any vessel for the purpose of being landed and passed for importation, such goods shall be forthwith removed to and landed at the Wharf or other place appointed for the landing of such goods. If such goods be not so removed, or landed, or if the boat containing such goods be found out of the proper track between the vessel and such Wharf or other proper place of landing, and such deviation be not accounted for to the satisfaction of the Officer in charge of the Custom House, such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation.

Goods landed at any other than the appointed place may be confiscated.

LX. No goods which shall have been discharged from any vessel under the authority of an Officer of Customs shall be landed, except at the Wharf or other place appointed for the landing of such goods. No goods which shall have been discharged into any boat for the purpose of being landed, shall, previously to their being landed, be trans-shipped into any other boat without the permission of an Officer of Customs. Any goods landed or trans-shipped contrary to the provisions of this Section shall be liable to confiscation.

Goods landed without a boat-note, liable to be confiscated, and person in fault, to penalty.

LXI. When any goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with each boat-load, or other separate despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof. Each boat-note shall be signed by an Officer of the vessel, and likewise by the Officer of Customs on board, if any such Officer be on board. If any goods sent to be landed be found without a boat-note in any boat proceeding to land, such goods shall be liable to confiscation ; or the person by whose authority the goods are being landed, or the person in charge of the boat, if it appear that the fault was with him, shall be liable to a penalty not exceeding twice the amount of Duty leviable on the said goods.

Entry for home consumption.

LXII. The importer, owner, or consignee of any goods liable to Duties of Customs, and intended to be delivered for home consumption on the landing thereof from the importing ship, or the agent of such importer, owner, or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House a bill of entry thereof in such form and containing such particulars as may from time to time, be directed by the Chief Customs Authority of the Presidency or place. The particulars of such entry shall correspond with the particulars given of the same goods and packages in the Report or Manifest of the ship. Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry. Provided that, if the importer, owner, or consignee, or his agent, shall make a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package, or parcel of goods, then the Officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an Officer of Customs. Except as provided in Section XXVII. of this Act for cases of obvious error, no re-valuation of goods assessed for Duty on the declared value thereof, shall be allowed after such goods shall have been removed from the Custom house.

Penalty for delivering goods without entry.

LXIII. If, without entry duly made, any goods shall be taken or passed out of any Custom House or Wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred Rupees

Provided that no entry shall be required in respect of passengers' baggage, which may be examined, landed, and delivered under such rules as shall from time to time be made under Section IV. of this Act by the Chief Customs Authority of the Presidency or place. Any prohibited or Dutiable goods found, either before or after landing, concealed in any such baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

Passengers' baggage.

LXIV. If, after any goods have been landed and before they have been passed through the Custom House, the importer, owner, or consignee, or his agent, or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the Revenue, such goods shall be liable to confiscation; or, if the goods cannot be recovered, the owner shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of such Duty, if the goods be capable of being assessed therewith; or, if they be not, to a penalty not exceeding one thousand Rupees for every missing or deficient package of unknown value.

Penalty for the removal of goods after landing and before due entry.

LXV. No claim for any abatement or refund of Duty on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Port in British India, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination thereof, by a Custom House Appraiser, or by such other person as the Officer in charge of the Custom House shall appoint for the purpose.

Abatement of Duty on account of damage.

LXVI. Goods, the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House, may after notice in the Official Gazette, be sold by public auction at such time (within thirty days from the date of entry), and at such place, as the Officer in charge of the Custom House shall appoint. The Duty on such goods shall be adjusted on the gross amount realised by their *bonâ fide* sale, as proved by the original account sales, without any abatement or deduction whatsoever, except of so much as represents the Duties payable on the importation thereof. On goods the value of which shall have been fixed under the provisions of Section CLXXIX. of this Act, no abatement of Duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value. No abatement of Duty on account of damage shall be allowed on Wines, Spirits, or Beer, or on any other Articles on which Duties are levied on quantity and not on value.

Disposal of damaged goods and levy of Duty thereon.

LXVII. All goods derelict, jetsam, flotsam, and wreck, brought or coming into any Port in British India, shall, at all times, be subject to the same Duties to which goods of the like kind are subject on importation at such Port, unless it shall be shown to the satisfaction of the Officer in charge of the Custom House, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted Duty free; or that such goods, if liable to Duty, are entitled to an abatement in respect of damage.

Goods derelict etc., to be treated as Foreign.

LXVIII. The Officer in charge of the Custom House, whenever he shall see fit, may require that any goods brought by Sea, and stowed in bulk, shall be weighed or measured on boardship before landing, and may levy Duty according to the result of such weighing or measurement.

Officer in charge of Custom House may require goods to be weighed or measured on board before landing.

LXIX. Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master or Commander of any vessel as not to be landed, and may thereupon, with the special sanction of the Officer in charge of the Custom House, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of Duty. Provided that all such cargo and ship's stores shall be entered in the Export Manifest of the vessel, as cargo or ship's stores not landed, and on which no Duty has been paid. Nothing in this Section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

No Duty on portion of import cargo intended for another Port, ship's stores, etc.

WAREHOUSING.

LXX. It shall be lawful for any person who has imported any goods into any Warehousing Port in British India to deposit such goods, without payment of Duty on the first entry thereof, in any public or private Warehouse, approved, appointed, or licensed under this Act.

Deposit of goods in warehouse without payment of Duty.

LXXI. Every building in any Warehousing Port or place which the Chief Customs Authority of the Presidency or place shall from time to time approve or appoint for the purpose, shall be a public Warehouse for the reception of goods under this Act. Every public Warehouse shall be under the lock and key of a Warehose-keeper appointed by the Chief Officer of Customs of the Port or place in which it is situated. The Warehouse-keeper shall, to the extent provided in Sections LXXVI. and XCIII. of this Act, and not otherwise, be responsible for the

Public Warehouses.

Responsibility of keeper.

charge of all goods deposited in his Warehouse, and for their due reception therein and delivery therefrom.

Chief Customs Authority to decide what goods may be deposited, and on what terms.

LXXII. The Chief Customs Authority of the Presidency or place may from time to time determine in what divisions of any public Warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods, may be deposited without payment of Duty on the first entry thereof. A table of the rates of rent so fixed for every public Warehouse shall be placed in a conspicuous part thereof.

The Chief Officer of Customs may license private Warehouses at any Warehousing Port or place.

LXXIII. At any Warehousing Port or place, the Chief Officer of Customs of the Port or place shall have power to license private Warehouses, for the reception of goods under this Act without payment of Duty on the first entry thereof. Every license for a private Warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs of the Port or place in which such Warehouse is situated.

Form of application for license for private Warehouses.

LXXIV. Every application for a license for a private Warehouse shall be in writing and shall be drawn up in the form marked A annexed to this Act, or in such other form as shall from time to time be prescribed by Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

Form of application for the admission of goods into Warehouse.

LXXV. Every application for the admission of goods into any public or private Warehouse shall be in writing, and shall be drawn up in the form marked B annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

No goods to be warehoused without payment or assessment of Duty.

The keeper or licensed holder to be answerable for weight or gauge.

Saving of the reassessment of warehoused goods on clearance for home consumption.

LXXVI. No goods shall be warehoused without payment of Duty on the first entry thereof, unless such goods shall have been assessed for Customs Duty in like manner as goods intended to be passed for home consumption. The Warehouse-keeper in respect of goods lodged in a public Warehouse, and the person who obtained the license in respect of goods lodged in a private Warehouse, shall be answerable for the weight or guage reported by the Custom House Officer who shall have assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in Section XCV of this Act. Nothing in this Section shall interfere with the re-assessment for Duty of warehoused goods on their clearance for home consumption, should an alteration of any Duty or of any fixed valuation for Duty render such re-assessment requisite with reference to the provisions of Section XXIX. of this Act.

Bond under what circumstances to be taken. Form and conditions.

LXXVII. When an application shall have been made for the warehousing of any goods under this Act, and when such goods shall have been assessed for Duty as directed in the last preceding Section, the importer, owner, or consignee, or his agent, shall be required to execute a bond for the amount of such Duty in the form marked C annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place. Every such bond shall relate to the Duties chargeable on the cargo or portion of the cargo of one vessel only.

Terms of bond.

LXXVIII. Every bond shall be for twice the amount of Duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand at such rate, not exceeding six per cent. per annum, as shall be fixed by the Chief Customs Authority of the Presidency or place. Every person who shall execute any such bond shall be bound thereby for the payment of all Duties, interest, and charges that shall be claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

Period for which goods may remain warehoused under bond.

LXXIX. When any such bond shall have been executed, the goods to which such bond relates shall be allowed to remain in Warehouse for a period not exceeding three years, without being liable to the demand of Import Duty.

Penalty for an improper carrying into Warehouse.

LXXX. If any goods entered to be warehoused shall be carried into the Warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers shall direct, such goods shall be liable to confiscation, and the person so carrying them, shall be liable to a penalty not exceeding one thousand Rupees.

Procedure in respect of goods to be warehoused.

LXXXI. When the provisions of Sections LXXV., LXXVI., LXXVII., and LXXVIII. shall have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the Warehouse in which they are to be deposited. There shall be sent with the goods a pass in which the name of the importing vessel, and of the bonder, the marks, numbers, and contents of each package, and the Warehouse or place in the Warehouse wherein they, are to be deposited, shall be specified. On receipt of the goods into the Warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper Officer,

and the pass shall be returned to the Officer in charge of the Custom House, afte which the warehousing of such goods shall be deemed to have been completed. If any goods entered to be warehoused shall be withheld, or romoved from any proper place of examination, before they shall have been examined and certified by the proper Officer, it shall be deemed that such goods have not been duly warehoused, and they shall be liable to confiscation.

Proviso as to confiscation.

LXXXII. When goods are passed by tale or by package, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or mis-description thereof tending to injure the Revenue, be liable to a penalty not exceeding ten times the amount of Duty which might have been lost to Government by such omission or mis-description, unless it shall be proved to the satisfaction of the Officer in charge of the Custom House that tne variance was accidental. If the quantity or value of any goods shall have been over-stated on importation, the error may be rectified at any time before the warehousing of the goods shall be completed.

Mis-description of goods.

LXXXIII. No package, butt, cask, or hogshead shall be admitted into any public or private Warehouse, unless it bear the marks and numbers specified in the pass for its admission. All goods shall be warehoused in the packages, butts casks, or hogsheads in which they shall have been imported, except as provided in Section XCII. of this Act. If any such goods be not so warehoused, or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in the said Section, or if any such goods be removed from the Warehouse in which they ware originally deposited, except in presence, or with the sanction of the proper Officer, or under the proper authority for their delivery, such goods shall be liable to confiscation.

Packages, etc., to be marked and numbered before admission.

Proviso as to confiscation.

LXXXIV. If the keeper of any public Warehouse, or the person who has obtained a license for any private Warehouse, shall neglect to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty Rupees.

Penalty for neglecting to stow goods properly in Warehouse.

LXXXV. If the keeper of any public Warehouse, or the person who has obtained a license for any private Warehouse, shall fail, on the requisition of any Officer of Customs, to produce any goods which shall have been deposited in such Warehouse, and which shall not have been duly cleared and delivered therefrom, he shall, for every such neglect, be liable, not only to pay the Duties due on such goods, but also to a penalty not exceeding fifty Rupees in respect of every package or parcel so missing or deficient.

Or for neglecting to produce goods when required.

LXXXVI. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or after being duly warehoused shall be fraudulently concealed in or removed from the Warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

Goods not duly warehoused, or concealed or removed, may be confiscated.

LXXXVII. The Officer in charge of the Custom House shall have authority at any time to issue his written order to cause any goods or packages lodged in any public or private Warehouse to be opened, weighed, or otherwise examined as he shall direct ; and after any goods shall have been so opened or examined, to cause the same to be sealed or marked in such manner as to him may seem fit. When any goods shall have been so sealed and marked, after examination, they shall not be again opened without permission from the Officer in charge of the Custom House ; and when any such goods shall be opened with the permission of such Officer, the packages shall, if it shall seem fit to such Officer, again be sealed or marked as before.

Officer in charge of Custom House may cause packages lodged in Warehouse to be opened.

LXXXVIII. The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private Warehouse licensed under this Act ; and if the person who has obtained a licence for any such private Warehouse shall not open the same when required so to do by an Officer entitled under this Act or under any other law to have access thereto, or shall, upon demand made by any such Officer at any time within the hours of business at the Port, refuse access to any such Officer, such person shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

License-holder refusing access to Customs Officers.

LXXXIX. Every bond executed for Duty chargeable on goods deposited in any private Warehouse, shall become due, and may be put in suit for the levy of such Duties and other demands of Customs, after seven days shall have passed from the date on which the Officer in charge of the Custom House shall have given notice that the license for such Warehouse is withdrawn.

When bond shall become due, for Duty on goods in private Warehouse deprived of license.

XC. Any importer, owner, or consignee of goods lodged in a public or private Warehouse under this Act, or the agent of any such importer, owner, or consignee, shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs, and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing

Owners to have access to warehoused goods in business hours.

to the Officer in charge of the Customs House. When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House shall find it expedient to employ such special Officer.

Penalty for importer or owner of warehoused goods clandestinely gaining access.

XCI. If the importer, owner, or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner, or consignee, shall clandestinely open any Warehouse, or, except in presence of the proper Officer of Customs gain access to his goods, such importer, owner, consignee, or agent shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Goods may be sorted, re-packed, etc., in Warehouse.

XCII. With the sanction of the Officer in charge of the Custom House, and after such notice given, and under such rules and conditions as the Chief Customs Authority of the Presidency or place shall from time to time prescribe, it shall be lawful for any importer, owner, or consignee of goods, or his agent, either before or after warehousing, to sort, separate, pack, and re-pack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be re-packed in the packages in which they were imported, or in such other packages as the Officer in charge of the Customs House shall permit); and also to fill up any casks of Wine, Spirits, or Beer from any casks of the same secured in the same Warehouse; and also to mix any Wines of the same sort, erasing from the cask all import brands, unless the whole of the Wine so mixed be of the same brand: and also to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of Duty, except as the same may eventually become payable on a deficiency of the original quantity, and after such goods have been so separated and re-packed in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or re-packing (or, at the like request, any goods which may not be worth the Duty) to be destroyed, and may remit the Duty payable thereon.

Compensation for loss or injury admissible only in case of wilful neglect, etc.

XCIII. No importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public Warehouse, compensation for any loss or injury that may occur to such goods while they are being passed into or out of such Warehouse, or while they remain therein, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of the Warehouse-keeper or of an Officer of Customs.

Chief Customs Authority may remit Duties on warehoused goods lost or destroyed and if goods are damaged, Duty to be levied on actual value.

XCIV. If any goods warehoused or entered to be warehoused, or entered to be delivered from a Warehouse, shall be lost or destroyed by unavoidable accident or delay, either on board of any vessel, or in landing, or during receipt into the Warehouse, or in the Warehouse, the Chief Customs Authority of the Presidency or place may remit the Duties due thereon, or return them if paid. Provided that, if any goods be so destroyed in a private Warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction. If goods lodged in a Warehouse shall receive damage through unavoidable accident, they shall be re-assessed for duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

Import Duty to be on the quantity or value registered on importation.

Proviso as to wines, spirits, beer, or salt.

XCV. The Import Duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever. Provided, that if it shall appear, at the time of clearing any Wines, Spirits, Beer, or Salt from any Warehouse, that a deficiency exists, an allowance (on account of ullage and wastage) shall be made in adjusting the Duties thereon, to an extent not exceeding the rates specified below, or in such Table as may from time to time be prescribed in this behalf by the local Government and notified in the Official Gazette :—

Rates of ullage or wastage in respect to Wines, Spirits, and Beer in cask.

For any time not exceeding———	6 months	...	2½ per Cent.
Exceeding 6 months and not exceeding	12 months	...	5 „
Exceeding 12 months and not exceeding	18 months	...	7½ „
Exceeding 18 months and not exceeding	2 years	...	10 „
Exceeding 2 years and not exceeding	3 years	...	12½ „

When Salt is warehoused in a Government Golah or Store-house under charge of a Government Officer, Duty of Customs shall be chargeable only on the amount actually cleared.

The rate of wastage to be allowed in adjusting the Duties on Salt warehoused in a private Golah or Store-house shall be prescribed from time to time by the Local Government and notified in the Official Gazette.

Penalty for deficiencies in a private Warehouse, if beyond ullage and wastage allowed.

XCVI. If any goods lodged in a private Warehouse shall be found to be deficient at the time of delivery therefrom, the person who obtained the license for such Warehouse shall, unless the deficiency be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the Duty chargeable on the goods so deficient. Provided that nothing in this Section shall apply to any Wines, Spirits, Beer, or Salt, the deficiency in which is proved to be due solely to ullage or wastage; and that it shall be competent to the Chief Customs Authority of any Presidency or place to direct, in respect to any such article, and for the purposes of this Section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in the last preceding Section.

Penalty for excess, in private Warehouse over registered quantity.

XCVII. If any goods lodged in a private Warehouse shall be found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary Duty thereon. When any penalty shall be incurred under this or the last preceding Section, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

Goods not to be removed from warehouse, except after application to the Officer in charge of the Custom House.

XCVIII. No goods shall be removed from any Warehouse, except after application to the Officer in charge of the Custom House, for permission to pass the goods for exportation by Sea to some Foreign Port or place; or for home consumption, in like manner as other goods are passed through the Custom House; or for removal to another Warehouse, as provided in Sections CV., CVI., CVII., and CVIII. of this Act.

Form of application for removal of goods-Twenty four hours' notice to be given.

XCIX. Application to remove goods from any Warehouse shall be made in the form marked D annexed to this Act, or in such other form as the Chief Customs Authority of the Presidency or place may from time to time prescribe. Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours before it is intended so to remove such goods.

Penalty, if goods be taken out of Warehouse without entry.

C. If any goods shall be taken out of any Warehouse otherwise than as is provided in this Act, the bonder shall forthwith pay the Duties due upon such goods; and every person who shall so take out any goods without payment of Duty, or who shall aid, assist, or be concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If the person so offending be an Officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner, or consignee of such goods, no Duty shall be payable in respect of such goods, and any damage so occasioned by such Officer shall, with the sanction of the Chief Customs Authority of the Presidency or place, be repaid by the Officer in charge of the Custom House to such importer, owner, or consignee.

Expenses of carriage, packing, &c., to be born by owners.

CI. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a Warehouse, shall, if paid by the Officer in charge of the Custom House or by the Warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner, or consignee, in like manner as the Duties of Customs.

Payment of rent and warehouse dues. In case of failure, goods may be sold, &c.

CII. If goods be lodged in a public Warehouse, the importer, owner, or consignee shall further pay monthly, on receiving a bill or written demand for the same from the Warehouse-keeper, the rent and warehouse dues. If any such bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House shall have power, in liquidation of such demand, (any transfer or assignment of the goods notwithstanding) to cause to be sold by public auction, after due notice in the Official Gazette, such sufficient portion of the goods as he may select. Out of the proceeds of such sale, the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if there be any, to the importer, owner, or consignee; provided that application for the same be made within one year from the date of the sale of the goods, or that good reason be shewn why such application was not so made.

Disposal of the proceeds.

On goods being removed otherwise than for export, &c., full Duty to be paid.

CIII. If any goods warehoused as provided in this Act shall be removed or taken from the Warehouse, otherwise than for removal to another warehouse as provided in Sections CV., CVI., CVII., and CVIII., of this Act, or for exportation by Sea to some Foreign Port or place; or if any goods shall not have been cleared from the Warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse, the Officer in charge of the Custom House shall thereupon demand the full amount of

import Duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

On failure to pay Duty, proceedings may be taken either against goods, or under the bond, and goods may be sold after ten days, if demand not paid,

CIV. If any importer, owner, or consignee shall fail to pay Duty or penalty that shall fall due on account of goods warehoused under this Act, it shall be lawful for the Officer in charge of the Custom House either to proceed upon the bond executed by such importer, owner, or consignee, or to cause such portion as to him shall seem fit of the warehoused goods, on account of which the Duty or penalty is demanded, to be detained in satisfaction thereof; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand, after due notice in the Official Gazette. The proceeds of any sale so made of goods so detained, shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner, or consignee of the goods; provided that application for the same be made within one year from the date of the sale, or that good reason be shown why such application was not so made. No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods, in the manner above provided, for any demand of Customs Duties or penalty claimed thereon.

Disposal of the proceeds.

Bonded goods may be removed from Warehouse to Warehouse on application in the prescribed form.

CV. Any importer, owner, or consignee of goods warehoused under this Act, or any agent of such importer, owner, or consignee, may, with the permission of the Chief Officer of Customs of the port, and on such conditions and after giving such security as the Chief Customs Authority of the Presidency or place shall direct, remove goods from one public or private Warehouse to another Warehouse in the same Port. When any person shall desire so to remove any goods, he shall make application in the form marked E annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe.

Bonded goods may be removed from one Port to another.

Procedure.

CVI. Goods warehoused under this Act at any Port or place in British India may in like manner be removed by Sea or by inland carriage in order to be re-warehoused at any other Port or place in British India in which the like kind of goods may lawfully be warehoused. Such goods may also again in like manner be removed to any other such Port or place to be there again re-warehoused. When any person shall desire so to remove any goods, he shall make application to the Chief Officer of Customs of the Port or place at which they are warehoused, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority of the Presidency or place shall from time to time prescribe.

Officers at Port of removal to transmit account of goods. Owner to execute bond for due arrival, &c.

CVII. When permission is granted for the removal of any goods from one Warehousing Port or place to another under the last preceding Section, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination, and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination, within such time as the Chief Customs Authority of the Presidency or place shall direct. Such bond may be taken by the proper Officer, either of the Port or place of removal, or of the Port or place of destination, as shall best suit the residence or convenience of the persons interested in such removal. If such bond shall be taken at the Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods shall be produced to the proper Officer, and duly re-warehoused at the Port or place of destination, within the time allowed for such removal, or shall be otherwise accounted for to the satisfaction of such Officer; nor until the full Duties due upon any deficiency of such goods, not so accounted for, shall have been paid.

Remover may enter into a general bond.

CVIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to permit any person desirous of removing warehoused goods, to enter into a general bond, with such sureties, in such amount, and under such conditions, as such Chief Customs Authority shall approve, for the removal from time to time of any goods from one Warehouse to another, either in the same or in a different Port or place, and for the due arrival and re-warehousing of such goods at the Port or place of destination, within such time as the said Chief Customs Authority shall direct.

CIX. Upon the arrival of warehoused goods at the Port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last mentioned goods.

Goods subject on arrival at Port of destination to the same laws as goods on first importation.

CX. When goods are brought in any vessel to any Port in British India and application is made for leave to trans-ship such goods for removal to some other Port in British India, such trans-shipment shall be allowed without the payment of Duty at the Port of trans-shipment, provided that the person requiring such trans-shipment shall enter into a bond, with such security as may be required of him, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs of the Port of trans-shipment shall direct. Such goods shall thereupon be treated in all respects as warehoused goods, removed under the provisions of Sections CVI. and CVII. of this Act. An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

Goods brought into one but intended for another Indian Port, may be trans-shipped without payment of Duty, on security.

CXI. If, on the arrival at the Port of destination, of goods removed under the last preceding Section, the person making the removal shall be desirous forthwith to export such goods by Sea to some Foreign Port or place or to pay Duty thereon for home consumption without actually lodging the goods in the Warehouse for which they had been entered, the Officer in charge of the Custom House at such Port of destination may, after all the formalities of entering and examining such goods for re-warehousing shall have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home consumption, upon payment of the Duties due thereon, in like manner as if such goods had been actually lodged in such Warehouse. All goods so exported, or for which the Duties have been so paid, shall be deemed to have been duly cleared from the Warehouse.

On arrival at destination of goods removed under Section CX., they may, after re-warehousing, be entered for exportation or home use on payment of Duties.

CXII. When any goods warehoused as provided in this Act shall be removed from any public or private Warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond. Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the Export Pass under which they have been taken away, if removed for exportation by Sea, or of the Import Pass or order, if removed for home consumption, and the amount of Duty (if any) paid.

Removal of goods to be noted on the bond, with particulars.

CXIII. A register shall be kept of all bonds entered into for Customs Duties on goods Warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in the last preceding Section. When the register shall show that the entire quantity of the goods covered by any bond has been withdrawn from Warehouse, either owing to the goods being passed for home consumption on the payment of Duties, or owing to their re-exportation by Sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods shall have been paid, it shall be competent to, and shall be the duty of, the Officer in charge of the Custom House, to cancel such bond, as discharged in full, and to deliver it, so cancelled, to the person who shall have executed or who shall he authorized to receive it.

A register of bonds to be kept. When the bonds are to be cancelled and returned to the obligee.

CXIV. In no case shall the settlement of Duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

Duty on warehoused goods to be settled within three years.

CXV. All the provisions of this Act relating to private Warehouses shall be applicable to all Warehouses wherein the Bengal Bonded Warehouse Association shall receive bonded goods.

Provisions as to private Warehouses application to Bengal Bonded Warehouse.

EXPORTATION.

CXVI. No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application shall have been duly made to the Officer in charge of the Custom House by the Master or Commander of such vessel, or by his authorized agent, nor until an order shall have been given thereon by such Officer for such entry or shipment of cargo. Every application made under this Section shall specify the name, tonnage, and nation of the vessel, the name of the Master or Commander, and the name of every place for which cargo is to be shipped. If any goods be taken on board of any vessel at any port in British India before she shall have been so entered outwards at such port, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees.

Permission for entry outwards to be obtained before export cargo is put on board.

Penalty.

Period allowed for the shipment of export cargo.

CXVII. A period of fifteen working days, after the expiration of the period allowed for discharging import cargo under Section LI. of this Act, or such further period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs), for the shipment of export cargo on board of every vessel not exceeding six hundred tons. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

Consequence of exceeding same.

If the period occupied in the shipment of export cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period. Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import cargo, and before the commencement of the shipment of export cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master or Commander.

Penalty for lading in the absence of Customs Officer.

If the Master or Commander of any vessel so laid up shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master or Commander shall be liable to a penalty not exceeding one thousand Rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation.

Goods not to be shipped except on proper days and places, nor until after entry and clearance.

CXVIII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday, or on any holiday or day on which the shipping of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be shipped or water-borne to be shipped for exportation from any Port in British India; nor, except with such written permission, shall any goods be so shipped or water-borne to be shipped on any day except between such hours as such Chief Customs Authority shall from time to time appoint by notice in the Official Gazette; nor from any place in any such Port except a Wharf duly appointed for such purpose; nor without the presence of the proper Officer of Customs; nor before due entry outwards of the exporting vessel, and of the goods; nor before such goods shall have been duly cleared for shipment. Any person who shall cause or suffer any goods to be shipped or water-borne to be shipped contrary to any of the provisions of this Section shall, in every such case, be liable to a penalty not exceeding one thousand Rupees; and any goods so unauthorizedly shipped or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation.

Penalty.

Customs Officer may open package and examine goods shipped.

CXIX. It shall be lawful for an Officer of Customs to open any package, and fully to examine any goods shipped or brought for shipment at any place in British India.

Officer in charge of Custom House may send Officers of Customs on board of any vessel clearing from Port.

And may allow shipment without presence of Officer.

CXX. It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to send, at his discretion, one or more Officers of Customs on board of any vessel clearing from such Port. Every Officer of Customs so sent shall remain on board of such vessel by day and by night, until it shall be otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the shipment of cargo may take place without the presence of an Officer of Customs.

Penalty for refusal to receive a deputed Officer on board.

CXXI. Every Master or Commander of a vessel who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to take in cargo until the penalty is paid.

One servant to be received on board with each Officer of Customs.

Accommodation of Officer, &c.

CXXII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs under Section CXX. of this Act, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

Exporter to deliver shipping bill before any goods are shipped.

CXXIII. No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent shall have filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the form marked F appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

CXXIV. Before any warehoused goods, or goods subject to Duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, shall be permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the Duty leviable on such goods, as the Officer in charge of the Custom House shall direct, with one sufficient surety that such goods shall be duly shipped, exported, and landed at the place for which they are entered outwards, or shall be otherwise accounted for to the satisfaction of such Officer.

On entry outwards, bond-note to be given for the shipping and landing.

CXXV. When any goods shall be sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof. Each boat-note shall be signed by the proper Officer of Customs, and shall be delivered to the Officer of Customs who is on board of the vessel on which such goods are to be shipped, if in any such Officer be on board. If no such Officer be on board, every such boat-note shall be delivered to the Master or Commander of the vessel, or to an Officer of the vessel appointed by such Master or Commander to receive it. If any person so receiving any such boat-note shall fail to deliver it, when required so to do by any Officer of Customs authorized to make such requisition, such person shall be liable to a penalty not exceeding five hundred Rupees.

Boat-note.

Penalty for the non-delivery of a boat-note.

CXXVI. No vessel, whether laden, partially laden or in ballast, shall depart from any Port in British India until a Port-clearance shall have been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same. Every application for Port-clearance shall be made by the Master or Commander at least twenty-four hours before the intended departure of the vessel; and every Master or Commander of a vessel so applying for Port-clearance shall answer to the Officer of Customs such question touching her departure and destination as shall be demanded of him. If any Master or Commander of a vessel shall attempt to depart without a Port-clearance, such Master or Commander shall be liable to a penalty not exceeding five hundred Rupees. If any vessel shall actually depart without a Port clearance, the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees; and such penalty may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of departure without Port-clearance, purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

No vessel to depart without a Port-clearance.

Penalties.

CXXVII. Except when duly appointed by the Master Attendant at any Port, or by some other Officer duly empowered in that behalf by the local Government, no Pilot shall take charge of any vessel proceeding to Sea, unless the Master or Commander of such vessel shall produce a Port-clearance. Every person convicted before a Magistrate of an infraction of this rule, shall be liable to a penalty not exceeding one thousand Rupees.

No Pilot to take charge of any vessel proceeding to Sea without production of Port-clearance.
Penalty.

CXXVIII. The Master or Commander of every vessel intending to leave any Port in British India shall, at the time of applying for Port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a Manifest in duplicate, according to such form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or Place, containing a full and true specification of all goods to be exported in the vessel; and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, shall require. The Officer in charge of the Customs House, or other duly authorized Officer, when satisfied with the said certificates, and as to the correctness of the Manifest shall grant a Port-clearance to the Master or Commander, and shall return at the same time to such Master or Commander one copy of the Manifest duly countersigned by the proper Officer of Customs.

The Master on applying for a Port-clearance, to deliver a Manifest and certificates.

CXXIX. It shall be competent to the Officer in charge of the Custom House to refuse Port-clearance to any vessel until the required Manifest and certificates are produced, and until all Port-dues and other charges and penalties due by such vessel, or by the Master ro Commander thereof, are duly paid, or their payment secured by such guarantee, or by a deposit at such rate, as the Officer in charge of the Custom House shall direct.

Port-clearance may be refused if all documents are not delivered, and charges paid.

CXXX. If any goods liable to Duty on importation, or taken from a Warehouse to be exported, or entitled to darwback on exportation, which are enumerated in the Manifest of any vessel, shall not be duly shipped before the departure of such vessel, or shall not be duly certified by the Officer as short-shipped, such goods shall beli able to confiscation. If any goods not enumerated in such Manifest

Certain goods, if entered in the Manifest and not shipped, liable to confiscation.

shall be taken on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding fifty Rupees in respect of every pack age of such goods. If any goods duly shipped on board of any such vessel be landed at any place other than that for which they shall have been so cleared the Master or Commander of such vessel shall, unless the circumstance be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

Penalty for the shipment of goods not entered in Manifest, &c.

Additional charge on goods passed after the Port-clearance has been granted.

CXXXI. When goods are passed through the Custom House for shipment on application presented after Port-clearance shall have been granted, two per cent. upon the market value of any such goods not liable to Duty, or liable to specified Duties according to weight or quantity only, or to Duty according to value, and upon the Tariff value of goods so passed which are liable to Duties on fixed Tariff valuations, shall in every case be levied in addition to any Duty to which such goods shall be ordinarily liable. Provided that nothing in this Section shall be deemed to apply to any shipment of Treasure or Opium.

Duty on goods re-landed or not shipped may be returned.

Proviso.

CXXXII. Upon an application being made to the Officer in charge of Custom House, the Duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be returned to the person on whose behalf such Duty was paid. Provided that no such refund shall be allowed unless application to re-land shall have been made, or notice of non-shipment shall have been given, before the vessel on which such goods were intended to be shipped, or from which they were re-landed, shall have left the Port.*

Stations may be appointed at which outward-bound vessels shall bring to, to land Officers of Customs.

CXXXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint, for any Port within such Presidency or place, stations at which any vessel departing from such Port may be required to bring to for the landing from such vessel of Officers of Customs, or for further examination previous to such departure.

Penalty for not bringing to at prescribed Station.

CXXXIV. If the Master or Commander of any vessel departing from any Port in British India shall, when so required, fail to bring to at any station that shall have been appointed by the Chief Customs Authority of any Presidency or place under the last preceding Section, such Master or Commander shall in every such case, be liable to a penalty not exceeding one thousand Rupees. If any vessel shall actually depart after failing to bring to when required, at any station appointed under the last preceding Section, the penalty leviable under this Section from the Master or Commander of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of such failure to bring to when required, purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Goods re-landed from a vessel returning to Port, or putting into another Port, how to be dealt with.

CXXXV. If any vessel, after having cleared from any Port in British India shall, without having discharged her cargo, return to such Port, or put into any other Port in British India not being a Free Port, any owner or shipper of cargo in such vessel or the agent of any such owner or shipper, if he shall desire to land the same or any portion thereof for re-export, may make application to the Officer in charge of the Custom House: who, if he grant such application, shall thereupon send an Officer of Customs to watch the vessel, and to take charge of the cargo during such re-landing or removal from on board. Goods on board of such vessel shall not be allowed to be trans-shipped or re-exported free of Duty, by reason of the previous settlement of Duty at the time of first export, unless such goods shall be lodged and shall remain, under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export. All charges attending such custody shall be borne by the exporter.

Vessel returning to Port may enter, and land goods under the Import rules.

Penalty for deficiency.

CXXXVI. In any case of the return of any vessel to Port, after Port-clearance, it shall be lawful for the Master or Commander of such vessel, or for any owner or shipper of cargo therein, to enter such vessel and to land such cargo under the rules for the importation of goods. In every such case the Export Duty shall be refunded to, and the amount paid in drawback shall be reclaimed from such owner or shipper; and if any goods, on account of which drawback has been paid, be not found on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of Custom House.

DRAWBACK.

Amount of Drawback allowable on re-export.

CXXXVII. Upon the re-export by Sea, to any Foreign Port or place, of any goods, except Salt or Opium, imported by Sea into British India from any

* This proviso is superseded by proviso contained in Act X. 1868.

Foreign Port or place, and upon which Duties of Customs have been paid on importation, seven-eighths of such Duty shall be repaid as drawback, and one-eighth shall be retained as reserved Duty. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House; and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place shall, on sufficient cause for such extension being shown, in any case determine. No re-payment shall be made under this Section on account of any article entered in the Export Manifest of the vessel as ship's Stores. Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation. But it shall be lawful for the said Chief Customs Authority in any such case to direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles.

Conditions for the granting of a Drawback.

CXXXVIII. No payment of drawback shall be made upon any goods re-exported from any Port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment. No such payment of drawback shall be made until the vessel carrying the goods has put out to Sea.

Time within which drawback must be claimed.

CXXXIX. No drawback shall be allowed upon the exportation of any goods entered for drawback, which shall be of less value than the amount of the drawback claimed. All such goods so entered shall be liable to confiscation.

Drawback not allowed on goods of value less than amount claimed. Such goods liable to confiscation.

CXL. No drawback shall be allowed upon goods not included in the Export Manifest.

No drawback on goods not entered in export Manifest.

CXLI. No drawback shall be allowed upon goods exported from one Port in British India, to another such Port, not being a Free Port. But drawback may be allowed upon goods which, after having been charged with Duty at one Port in British India, and thence exported to another such Port not being a Free Port, are thence again re-exported by Sea to a Foreign Port or place. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House at the Port of final exportation, and that such final exportation be made within three years from the date of first importation into British India.

No drawback allowed except on goods exported out of India.

Proviso.

CXLII. Any person, or the duly authorized agent of any person, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed, and are not intended to be re-landed at any Port in British India; and that such person was, at the time of entry and shipment, and continues to be, entitled to drawback thereon.

Declaration to be made by parties claiming drawback.

CXLIII. If any goods, on the entry of which for re-export drawback shall have been paid, shall not be duly exported to a Foreign Port or place, or shall be un-shipped or re-landed at any Port in British India (not having been duly re-landed or discharged as short-shipped under the care of an Officer of Customs, or under Section CXXXV. or Section CXXXVI. of this Act), such goods, together with any vessel used in so un-shipping or re-landing them, shall be liable to confiscation; and the Master or Commander of the vessel from which such goods shall be so un-shipped or re-landed, and any person by whom or by whose order or means such goods shall be so un-shipped or re-landed, or who shall aid or be concerned in such un-shipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand Rupees.

Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.

CXLIV. A drawback of the whole of the Duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine shall have been warehoused without payment of Duty on the first entry thereof. The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportions specified below; that is to say:—

Drawback of Duties on wine allowed for Officers of the Navy.

	Gallons.
For every Admiral	1,260
Vice-Admiral	1,050
Rear-Admiral	840
Captain of 1st and 2nd rate	630
Captain of 3rd, 4th, and 5th rate	420
Captain of an inferior rate	210

Lieutenant or other Commanding Officer, and for every Marine Officer, Master, Purser, or Surgeon 105

The name and rank of Officer claiming shall be declared.

CXLV. Every person clearing and claiming drawback for wine as provided in the last preceding Section, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed. All such wine shall be delivered into the charge of the proper Officer of Customs at the Port of shipment, to be shipped under their care; and when the Officer commanding the ship shall have certified the receipt of such wine into his charge, and the proper Officer of Customs shall have certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine from one Naval Officer to another, &c.

CXLVI. The Officer in charge of the Custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer, on board of the same or of any other such ship, as part of his authorized proportion; or may permit the trans-shipment of any such wine from one ship to another for the use of the same Naval Officer; or the re-landing and warehousing of any such wine for further re-shipment. The Officer in charge of the Custom House may also receive back the Duties for any such wine, and allow the same to be cleared for home consumption.

Wine not laden by permission may be confiscated.

CXLVII. If any such wine be not laden on board of the ship for which it was intended, or be unladed from such ship without the permission of the proper Officer of Customs, such wine shall be liable to confiscation.

Provisions and stores for Her Majesty's Navy exempt from Duty.

CXLVIII. Provisions and stores for the use of Her Majesty's Navy shall, in like manner, be passed free of Duty; and where Duties shall have been paid on such provisions and stores, drawback of such Duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

COASTING TRADE.

No duties on goods carried in coasting vessel.
Proviso.

CXLIX. No Duties of Customs shall be levied on any goods lawfully carried in any coasting vessel. Provided that nothing in this Section shall apply to Opium, Salt, or Spirits manufactured after the English method; or to goods brought from any Foreign Port or place to any Port in British India, and there trans-shipped for, or thence carried to, any other Port in British India without payment of Duty; or to goods removed in bond.

No draw back for goods shipped in a coasting vessel.

CL. No drawback shall be allowed for any goods shipped in any coasting vessel; but this shall not interfere with the allowance of drawback for goods duly manifested and exported by Sea to any Foreign Port or place in any Native vessel, other than a coasting vessel.

Local Government may regulate carriage of goods coastwise.

CLI. The Local Government, acting under the general instructions of the Government of India, may from time to time determine, by rules to be published in the Official Gazette, on what conditions, and on what conditions only, goods may be carried coastwise, though not shipped at any Port in British India to be so carried; also in what cases, and in what cases only, goods may be shipped in a vessel to be carried coastwise, before all goods brought in such vessel from a Foreign Port or place shall have been unladen. If, in contravention of any such rules so published, any goods shall be taken into or put out of any coasting vessel; or any coasting vessel shall touch at any Foreign Port or place, or deviate from her voyage, unless forced by unavoidable circumstances; or if the Master or Commander of any coasting vessel which shall have touched at a Foreign Port or place shall fail to declare the same in writing to the Officer in charge of the Custom House at the Port in British India at which such vessel shall afterwards first arrive, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to pay double Duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary Duty which shall in every case be levied on such goods.

Penalty.

Times and places for shipping of goods.

CLII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday or on any holiday or day on which the shipping or landing of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be un-shipped from any vessel arriving coastwise, or be shipped, or water-borne to be shipped, for carriage coastwise, at any Port in British India; nor, except with such written permission, shall any goods be so un-shipped, or shipped, or water-borne to be shipped, on any day except between such hours as the Chief Customs Authority shall from time to time appoint by notice in the Official Gazette; nor from any place in any such Port except a wharf duly appointed for such purpose; nor

without the presence or authority of the proper Officer of Customs. Any person who shall cause or suffer any goods to be un-shipped, shipped, or water-borne to be shipped, contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding five hundred Rupees; and any goods so unauthorizedly un-shipped, shipped, or removed for shipment, shall be liable to confiscation.

Penalty.

CLIII. The Master or commander of every coasting vessel shall keep, or cause to be kept, a cargo-book in which shall be stated the name of the Master or Commander, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound. At every Port of lading such Master or Commander shall enter, or cause to be entered, in such book, the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein, or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him. At every Port of discharge of any such goods, such Master or Commander shall enter, or cause to be entered, in such book, the respective days on which such goods or any of them are delivered out of such vessel. The respective times of departure from every Port of lading, and of arrival at every Port of discharge shall in like manner be duly entered. Every such Master or Commander shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein; and if, upon examination, any package entered in the cargo-book as containing Foreign goods, shall be found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package shall be found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation. If any such master or Commander shall fail correctly to keep such cargo book, or to produce the same on demand; or if at any time there be found on board of any such vessel any goods not entered in such book as laden or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board, the Master or Commander of such vessel shall be liable to penalty not exceeding five hundred Rupees.

Rules respecting cargo book to be kept by Masters of coasting vessels.

Penalty for breach of rules.

CLIV. Before any coasting vessel shall depart from the Port of lading, an account, with a duplicate thereof, in the form marked G appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, shall be filled in and signed by the Master or Commander and delivered to the Officer in charge of the Custom House. Such Officer shall retain the duplicate and return the original account dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein. If any such account be false, the Master or Commander shall be liable to a penalty not exceeding five hundred Rupees.

Coasting vessels to deliver account and obtain Port-clearance, before leaving Port of lading.

Penalty for a false account.

CLV. The Officer in charge of the Custom House may, on good and sufficient reason, refuse Port-clearance to any vessel declared to be bound to any Port in British India, unless the owner, agent, Master, or Commander shall give a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate, from an Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a fair and reasonable time to be prescribed in each case by the Officer requiring the bond. On failure to produce such certificate, or to show sufficient reason for its non-production, the parties to the bond shall be bound to pay a penal sum equal to double the amount of Customs Duties which would have been chargeable on the export cargo of the vessel had she been declared to be bound to a Foreign Port.

Officer in charge of Custom House may require a bond before granting a Port-clearance.

Penalty for failure to produce certificate.

CLVI. The Chief Customs Authority of any Presidency or place may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the landing and clearance, and for the entry and unlading, of any coasting Steam vessel at any Ports of despatch or destination, or at any intermediate Ports at which she may touch for the purpose of receiving goods or passengers. Any such general pass may be revoked by notice in writing under the hand of the proper Officer, delivered to the Master or Commander, or to the owner of such Steam vessel, or to any of the crew on board.

Grant and revocation of general pass.

CLVII. Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted therein, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery. Any Master or Commander who shall fail so to deliver a pass within twenty-four hours after arrival, shall be liable to a penalty not exceeding two hundred Rupees.

Time for delivery of pass, and penalty for failure.

Goods on coasting vessel, if excisable, not to be unladen without due permission.

CLVIII. If any of the goods on board of any coasting vessel be subject to any Duty of Excise, such goods shall not be unladen without the permission of the proper Officer of Excise

Penalty for breach in respect of lading, carrying coastwise, or unlading.

CLIX. If, contrary to the provisions of this or any other Act relating to the Customs, any goods shall be laden on board of any vessel in any Port or place in British India and carried coastwise, or any goods which have been brought coastwise shall be unladen in any such Port or place, or any goods shall be found on board of any coasting vessel without being entered in the clearance thereof, such goods shall be liable to confiscation, and the Master or Commander of such vessel shall, in every such case, shall be liable to a penalty not exceeding five hundred Rupees.

Customs Officers may go on board and examine any coasting vessel.

CLX. Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel. The Officer in charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection. If the Master or Commander of any such vessel shall refuse to bring any such document to the Officer in charge of the Custom House when so required, such Master or Commander shall be liable to a penalty not exceeding two hundred Rupees.

Penalty for refusal to produce document.

CARGO BOATS.

Government may prohibit the plying of any unlicensed cargo-boats.

CLXI. It shall be lawful for the local Government of any Presidency or place to declare with regard to any Port within its jurisdiction, by Notification in the Official Gazette, that after a stated date no boat which shall not have been duly licensed and registered will be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such Port. After the issue of such Notification with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation.

Goods found in unlicensed boats to be confiscated.

Issue of licenses.

CLXII. It shall be lawful for the Chief Officer of Customs of any Port with regard to which a Notification shall have been issued under the last preceding Section, to issue licenses for and to make registration of cargo-boats, under such rules and on payment of such fees as the local Government shall from time to time prescribe. Any table of fees prescribed under this Section shall be published in the Official Gazette.

SPIRITS.

Rules for removal of spirits from distillery without payment of Duty, and for exportation thereof.

CLXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to prescribe from time to time the conditions on which, and the rules under which, spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of Duty of Excise. The person so removing any such spirits, shall execute to the Government a bond with one or more sureties, in the form marked H annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe, for the payment of Duty on such portion of the said spirits as shall not be exported within four months from the date of the bond, and upon any portion, which shall be exported to any other Port in British India, not being a Free Port but proof of the landing whereof and of payment of Duty of Customs thereon at the Port of destination shall not be furnished to the satisfaction of the proper Officer within six months from the date of the bond. It shall be lawful for the Chief Officer of Customs of the Port of exportation, to extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits or for the production of such proof that Duty has been paid.

Spirits for export to be taken direct from Distillery to Custom House under pass.

CLXIV. Spirits for exportation under bond for the Duty of Excise shall be taken from the distillery direct to the Customs House, under passes to be granted for that purpose by the Officers of Excise.

Rules for the exportation of spirits.

CLXV. Spirits brought to the Custom House for exportation by Sea shall, previous to shipment, be gauged and proved by an Officer of Customs. Any drawback to be allowed for spirits on which Duty has been paid shall be regulated by the strength and quantity of such spirits as ascertained by such proof and guage ; and the quantity of sprits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

Duty to be recovered on any deficiency in spirits under bond.

CLXVI. Duty shall be recoverable upon any difference between the quantity of spirits passed from a distillery and the quantity ascertained by guage and proof

at the Custom House, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government and notified in the Official Gazette.

Drawback of Excise Duty on spirits manufactured after the English method.

CLXVII. A drawback of Duty of Excise paid on spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of Section CXXIV. of this Act, shall be allowed by the Officer in charge of the Custom House at the Port of exportation. Provided that the exportation be made within one year from the date of payment of such Duty of Excise, an that the spirits, when brought to the Custom House, are accompanied by the pass in which such payment is certified.

No drawback allowed on spirits exported to Indian Ports not being Free Ports, but such spirits may be exported under bond.

CLXVIII. No drawback shall be allowed on spirits exported from any Port in British India to any other Port in British India not being a Free Port. But it shall be lawful, on the conditions and under the rules prescribed from time to time under Section CLXIII. of this Act, to export from any such Port to any other such Port, under bond for the Duty of Excise, spirits manufactured in British India after the English method. Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such Port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government, and notified in the Official Gazette.

Duty on spirits exported from one Indian Port to another, how to be adjusted.

CLXIX. Spirits manufactured in British India after the English method and exported under bond for the Duty of Ex ise from any Port in British India to any other Port in British India not being a Free Port, shall be chargeable at the Port of destination with Duties of Custom at the ordinary rate fixed for Duties on spirits of the like kind and strength imported into such Port.

Rum Shrub, &c., how to be charged with Duty.

May be exported under the same rules as spirits.

CLXX. Any Rum Shrub, cordial, and other such liquor prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of the distillery, shall be charged with Duty according to the quantity of spirits used in its preparation as ascertained by such Surveyor or Officer. The provisions of this Act respecting spirits manufactured after the English method, except such as relate to guage and proof, shall apply to such liquor. When any such liquor is removed for exportation, without payment of Duty of Excise, the bond to be executed by the person removing it shall be in the form marked H annexed to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Spirits intended for exportation may be removed for local consumption.

CLXXI. Spirits brought to the Custom House for exportation under bond for the duty of Excise may, on payment of such Duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise. Credit for every such payment shall be given on settlement of the bond to which it relates

Condition of Drawback and remission of Duty on spirits.

CLXXII. No drawback shall be allowed for any spirits on which Duty has been paid, nor shall the Duty due on any spirits under bond be remitted, unless the spirits shall be shipped from the Custom House, and in a vessel whereon an Officer of Customs has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be re-landed without a special pass from an Officer of Excise, in addition to the usual order of the Officer in charge of the Custom House.

Re-land of spirits shipped.

Penalty for irregularly re-landing spirituous liquors.

CLXXIII. Every person who, without a special pass from an Officer of Excise at the place of exportation, re-lands or attempts to re-land any spirituous liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred Rupees; and all such liquor, together with every cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

AGENTS.

Agents must be duly authorized.

CLXXIV. No person shall act in any Custom House as an Agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorized so to do by the Officer in charge of the Custom House. It shall be lawful for such Officer to require any person so authorized, to give a bond with sufficient securities, in any sum not exceeding five thousand Rupees, for the faithful behaviour of such person, as regards the Custom House Regulations and Officers. Every person who, not being so authorized, shall act as an agent, shall for every such offence be liable to a penalty not exceeding five hundred Rupees.

Penalty for acting without due authority.

Agent to produce authority if called on.

CLXXV. When any person shall make application to any Officer of Customs to transact any business on behalf of any other person, such Officer may require the person so applying to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of

such authoity may refuse to transact such business. The clerk or servant or known agent of any person or of any mercantile Firm may transact business at the Custom House, on account of such person or Firm, if such person or a member of such Firm shall identify to the Officer in charge of the Custom House the person so empowered to transact his or their business, and shall deposit with such Officer a written authority duly signed, empowering such Officer to pay to such person all drawbacks, refunds, and other monies for which he shall produce receipts.

Duplicate Bills of Entry, &c.

Importer or exporter to deliver a duplicate of the bill of entry, or shipping bill if required.

CLXXVI. Upon the entry or clearance of any goods, for importation or exportation, the importer, exporter owner, or consignee, or the agent of such importer, exporter owner, or consignee, shall, if the Officer in the charge of the Custom House so require, deliver to such Officer a duplicate of the bill of entry or shipping bill thereof. In such duplicate all sums and numbers may be expressed in figures.

Penalty.

CLXXVII. Every importer, exporter owner, or consignee, and every agent of any such importer, exporter, owner, or consignee, who shall wilfully fail to comply with the provisions of the last preceding Section shall be liable to a penalty not exceeding two hundred Rupees.

Taking of Samples.

Officer in charge of Custom House may take samples of goods.

CLXXVIII. An Officer in charge of a Custom House may, on the entry or clearance of any goods, or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which Duties are payable, or for any other necessary purpose. Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to the owner as the Officer in charge of the Custom House shall direct.

CLXXIX. Repealed by Act XVII. 1867.

Assessment of goods liable to Duty according to value.

CLXXX. In all cases in which goods are liable to Duty according to the value thereof, and in which no value shall have been fixed by a general tariff or under the last preceding Section the value shall be assessed at the wholesale cash price less trade discount, for which goods of the like kind and quality are sold or are capable of being sold at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the Duties payable on the importation thereof shall amount to.

Expense of piling timber, chargeable by measurement, by whom to be borne. No allowance for interstices.

CLXXXI. Any person entering any timber or wood chargeable with Duty by measurement, shall, at his own expense, pile, sort, frame, or otherwise place the same in such manner as the Officer in charge of the Custom House shall deem necessary to enable the Officers of Customs to measure and take account thereof. In all cases in which timber or wood is measured in bulk, the measurement shall be taken to the full extent of the pile, and no allowance shall be made by the Officers on account of interstices.

Trans-shipment of stores from one vessel to another of the same owner without payment of Duty.

CLXXXII. If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of Marine Stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be trans-shipped from one such vessel to any other such vessel without payment of import Duty.

Provisions, &c., for consumption on vessels proceeding to Foreign Ports may be exported Duty-free on certain conditions.

CLXXXIII. Provisions and other such Ship's Stores warehoused at the time of importation, may be exported without payment of Duty for use and consumption on hoard of any vessel proceeding to a Foreign Port or place. Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of Duty whether of Customs or excise, in such quantities as the Officer in charge of the Custom House shall determine, with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart. Provided that no such rum shall be shipped as stores free of Duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty day's probable duration.

In case of any dispute, the Duty to be deposited pending decision.

CLXXXIV. If any dispute shall arise as to the proper rate of Duty payable in respect of any goods imported into, or exported from any Port in British India, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the Officer in charge of the Custom House at the Port of importation or exportation respectively, the amount of Duty demanded by such Officer, pending the decision of the Chief Customs Authority. Upon payment of such deposit and compliance with the provisions of this Act relating to the entry

of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner, or consignee, or his agent.

Payment of Duties short-levied or erroneously refunded.

CLXXXV. When Duty or other Customs dues or charges have been short-levied through inadvertence, error, or misconstruction on the part of the Officers of Customs; or when Duty, after having been levied, has been erroneously refunded, the person chargeable with the Duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or re-pay the amount paid to him in excess, on demand being made within six months from the date of the first assessment, or making of the refund; and it shall be lawful for the Officers of Customs to refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charge erroneously levied or paid, unless application be made within six months.

CLXXXVI. No Duty or other Customs dues or charges which shall have been charged and paid, and of which, or of a portion of which repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within six months from the date of such payment.

Importer and exporter to pay expense incidental to compliance with Custom House rules.

CLXXXVII. The un-shipping, carrying, shipping, and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, un-packing, bulking, sorting, lotting, marking, and numbering of goods, where such operations are necessary or permitted, and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by or at the expense of the importer exporter, owner, or consignee of such goods.

No compensation for loss or injury except on proof of wilful neglect.

CLXXXVIII. No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury that may occur to such goods at any time while they remain or are lawfully detained in any Custom House, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

Rates of fees for wharfage to be fixed by the Chief Customs Authority.

CLXXXIX. The Chief Customs Authority of any presidency or place may from time to time fix the rate to be charged on goods left on any Custom House Wharf or other authorized landing place, or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority.

Saving of anchorage and harbour dues, also special dues on opium tobacoo, ganja, spirits and salt.

CXC. Nothing contained in this Act shall be construed to prevent the levy of any anchorage or harbour dues now leviable at any port in British India, or the levy of any special Duties on Opium, Tobacco, Ganja, Spirits, or Salt, under any law which is or shall be in force in any part of British India.

Duplicates may be granted and amendments made on payment of fee.

CXCI. A Duplicate of any certificate, Manifest, Bill, or other Custom House document may, on payment of a fee of not less than one Rupee and not more than ten Rupees, be furnished, at the discretion of the Officer in charge of the Custom House, if he is satisfied that no fraud has been committed or is intended. The Officer in charge of the Custom House may also authorize any amendment to be made in any document, after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended.

Customs Officers exempted from service on any jury or inquest.

CXCII. No Commissioner or Collector of Customs, or Officer of Customs whom a Commissioner or Collector of Customs shall deem it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

OFFENCES AND PENALTIES.

Penalty on Commanders of tug-steamers or pilot-vessels for receiving or discharging any goods without due authority.

CXCIII. If any goods be put on board of any tug-steamer or pilot-vessel from any Sea-going vessel inward bound, or if any goods be put out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward bound vessel, or if any goods on which drawback shall have been granted shall be put on board of any tug-steamer or pilot-vessel for the purpose of being re-landed without the authority of the Officers of Customs, such goods shall be liable to confiscation, and the Master or Commander of such tug-steamer or pilot-vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for shipping, landing, concealing, &c., contrary to Act.

CXCIV. Any person shipping or landing goods, or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act; and any person who shall be found to have been on board of any vessel liable to confiscation under Section XIII. of this Act, while such vessel was within any bay, river, creek, or arm of the Sea which had not been declared to be and was not then existing as a Port for the the landing or shipment of goods shall be liable to a penalty not exceeding one thousand Rupees.

Vessel in Port with cargo and afterward

CXCV. If any vessel, which shall have been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river,

found in ballast, if cargo unaccounted for may be confiscated.

creek, or arm of the Sea in British India, light or in ballast, and if the Master or Commander be unable to give a due account of the Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

Tackle &c., and packages and contents included in confiscation of vessels and goods. Also conveyance used in removal.

CXCVI. The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture. The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof. Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation, shall in the like manner be liable to confiscation.

Goods may be detained, and Port clearance refused, pending payment of fines incurred.

CXCVII. If any person in charge of or owning a vessel shall have become liable to any fine or penalty on account of any act or omission relating to the Customs the officer in charge of the Custom House may refuse Port-clearance to such vessel until the fine or penalty be discharged If any person passing goods through the Custom House shall have become liable to any fine or penalty, the Officer in charge of the Custom House may detain such goods until the fine or penalty be discharged.

Persons reasonably suspected may be detained.

CXCVIII. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs or other person duly employed for the prevention of sumggling.

Vessels, goods, and persons may be seized or detained.

CXCIX. Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the Customs, may be detained in any place, either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels and goods seized how to be dealt with.

CC. Every vessel and all goods seized on the ground that they are liable to confiscation, shall, as soon as conveniently may be, be delivered into the care of the Officer appointed to receive the same. If there be no such Officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to the place of seizure. If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest Office appointed by the Chief Customs Authority of the Presidency or place for the deposit of goods so seized.

Persons detained to be taken to nearest Magistrate, or to Officer in charge of Custom House.

CCI. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before the nearest Magistrate or Officer in charge of a Custom House.

Persons taken before a Justice may be detained or admitted to bail.

CCII. When any person, detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, shall be taken before a Magistrate, such Magistrate may, if he see reasonable cause, order such person to be detained in gaol or in the custody of the Police for such time as shall be necessary to enable such Magistrate to communicate with the Officers of Customs. Provided that any person so detained shall be liberated on giving recognizance or security, to the satisfaction of the Magistrate, to appear at such time and place as shall be appointed by such Magistrate for his appearance.

Any person escaping may be afterwards detained.

CCIII. If any person liable to be detained under this or any other Act relating to the Customs, shall not be detained at the time of committing the offence for which he is so liable, or shall, after detention, make his escape, such person shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Persons in Her Majesty's Navy when detained, to be secured on board until warrant.

CCIV. When any person employed on the crew of any of Her Majesty's ships, shall be detained under this or any other Act relating to the Customs, the detaining Officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such person in security on board of such ship, until the detaining Officer shall have obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law. A Magistrate shall duly grant a warrant upon complaint made to him by the detaining Officer, stating the offence for which the person is detained.

On seizure, the seizing Officer shall give reasons in writing.

CCV. When any vessel or goods shall be seized or any person shall be detained under this or any other Act relating to the Customs, it shall be the duty of the Officer or other person making such seizure or detention, on demand of the person in charge of the vessel or goods so seized, or of the person so detained, to give to such person a statement in writing of the reason for such seizure or detention.

Procedure in respect of goods seized in suspicion.

CCVI. When any goods liable to confiscation under this or any other Act relating to the Customs, shall be seized by any Police Officer on suspicion that they had been stolen, it shall be lawful for such Officer to carry such goods to any

Police Station or Court at which a complaint or information connected with the stealing or receiving of such goods shall have been made, or an enquiry connected with such stealing or receiving shall be in progress, and there to detain such goods until the dismissal of such complaint or information, or the conclusion of such enquiry or of any trial thence resulting. In every such case the Police Officer who seized the goods shall send written notice of their seizure and detention to the nearest Custom House ; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law. If any Police Officer, whose duty it is, under this Section, to send a written notice or cause goods to be conveyed to a Custom House, shall neglect so to do, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

Penalty for neglect of police Officer to give notice.

CCVII. Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods ; provided that such Officer shall have reasonable ground to suppose that smuggled goods are contained therein.

Customs Officers may stop carts, &c., and search for goods.

CCVIII. It shal be lawful for the Magistrate of a District, or Division of a District, on application by an Officer in charge of a Custom House, stating his belief that dutiable or prohibited goods are secreted in any place in such District or Division, to issue a warrant to search for such goods. Such warrant shall be executed in the same way, and shall have the same effect, as a search warrant issued under the Code of Criminal Procedure.

Magistrate of District may issue search warrant on application.

CCIX. Any Officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in any Port in British India, or any person who shall have landed from any vessel or boat. Provided that such Officer shall have reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person If any person on board of any such vessel or boat, or who may have landed from any such vessel or boat, shall, upon being asked by any such Officer whether he has dutiable or prohibited goods about his person or in his possession, affirm that he has not, and if any such goods shall, after such denial, be discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

Persons may be searched on reasonable suspicion.

Penalty for possession of smuggled goods.

CCX. When any Officer of Customs is about to search any person under the provisions of the last preceding Section, such person may require the said Officer to take him previous to search, before the nearest Magistrate or Officer in charge of a Custom House. If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Officer in charge of a Custom House. The Magistrate or Officer in charge of a Custom House before which any person shall be so brought, shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made. A female shall not be searched by any but a female.

Persons before search may require to be taken before a Magistrate, &c.

CCXI, If any Officer of Customs shall require any person to be searched, for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

Penalty for searching persons on insufficient grounds.

CCXII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall be guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, such Officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.

Customs Officers, if guilty of breach of duty, how punishable.

CCXIII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall practice or attempt to practice any fraud for the purpose of injuring the Customs Revenue, or shall abet or connive at any such fraud or any attempt to practise any such fraud, such Officer or other person shall, on conviction before a Magistrate, be liable to imprisonment of either description for any term not exceeding two years, or to fine, or to both.

Customs Officers committing or conniving at frauds, how punishable.

CCXIV. No suit, action, or other proceeding shall be commenced against any person for any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action, or other proceeding and of the cause thereof, nor after the expiration of three months from the accrual of the cause of suit, action, or other proceeding.

No proceeding to be commenced against Officer of Customs without notice, or after the limited interval.

CCXV. Whoever intentionally obstructs any Officer of Customs, or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such Officer or person, shall, on conviction before a

Punishment for obstruction to Customs Officer

Magistrate, be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand Rupees, or to both.

Penalty for making a false declaration, or for refusing tu answer questions, &c.

CCXVI. If any person shall knowingly make or sign any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular; or if any person shall counterfeit falsify, or fraudulently alter or destroy any such document, or any seal, signature, initials, or other mark made or impressed by any Officer of Customs in the transaction of any business relating to the Customs; or if any person required under this or any other Act relating to the customs to produce any document shall refuse or neglect to produce such document; or if any person required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs shall not truly answer such question; such person shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand Rupees.

Penalty for an unauthorized declaration as to value of goods.

CCXVII. Any person subscribing or attesting any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee, be liable in every such case to a penalty not exceeding one thousand Rupees.

Officer in charge of Custom House may adjudge confiscations, and penalties.

CCXVIII. In every case in which, under this Act, any vessel, cart, or other means of conveyance or any horse or other animal is liable to confiscation; or any goods are liable to confiscation or to increased rates of Duty; or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty, an Officer in charge of a Custom House may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, for increased rates of Duty.

Local Government may confer like powers on other Officers of Customs.

Proviso.

CCXIX. In respect to cases cognizable under the last preceding Section by an Officer in charge of a Custom House, the local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of Duty. Provided that the power to adjudge confiscation shall not extend, as regards a Deputy, Collector, to goods of a greater value tha one thosand Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to goods of a greater value than one hundred Rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector to a sum exceeding fifty Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to a sum exceeding ten Rupees.

Appeal from Subordinate to Chief Customs Authority.

CCXX. In any case adjudicated by an Officer of Customs, any party aggrieved by the award may appeal to the Chief Customs Authority of the Presidency or place, or to any superior Officer of Customs empowered in that behalf by the local Government. It shall thereupon be lawful for such authority or superior Officer to make such further enquiry, and to pass such order as the shall think proper, confirming, altering, or annulling the original award. Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rates of Duty than shall have been adjudged against him in the original award.

Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

CCXXI. The award of any confiscation, penalty, or increased rates of Duty under this Act by an Officer of Customs, shall not interfere with any punishment to which the person affected thereby shall be liable under any other law.

Offences not specially provided for how to be adjudicated.

CCXXII, All offences against this Act, other than those cognizable under Section CCXVIII. of this Act by an Officer in charge of a Custom House. may be adjudicated in a summary manner by a Magistrate.

Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs Authority.

CCXXIII. If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act, by an Officer of Customs or by a Magistrate, the Chief Customs Authority of the Presidency or place shall be of opinion that such penalty or confiscation ought to be remitted in whole or in part or commuted, such Chief Customs Authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

How payment of penalty to be enforced.

CCXXIV. When a penalty is adjudged against any person under this Act by any Officer of Customs, it shall be lawful for such Officer, if the penalty be not paid, to levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other Officer of Customs. When an Officer of Customs, who has adjudged a penalty against any person under this Act, shall fail to realize the unpaid amount of such penalty from the goods of such person, it shall be lawful for such Officer to notify in writting to any Magistrate within whose jurisdiction such person or any goods belonging to such person shall be, the name and residence of the said person and the amount of penalty unrecovered; and such

Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

CCXXV. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine :—

Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.

If the penalty or fine do not exceed fifty Rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed one hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months.

If the penalty or fine do not exceed five hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds five hundred Rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

It shall be lawful for the Magistrate at any time to enforce payment of any penalty or fine, or of any portion thereof, by distress and sale of the goods of the defaulter.

CCXXVI. The imprisonment which is imposed in default of payment of fine or penalty under this or any other Act relating to the Customs, shall terminate whenever that fine or penalty is either paid or levied by process of law.

Imprisonment to terminate upon payment of the fine.

CCXXVII. If, before the expiration of the term of imprisonment fixed in default of payment, such a portion of the fine or penalty be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

Or upon payment of proportional part of fine.

CCXXVIII. When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods, shall be adjudged under Section CCXVIII. or Section CCXIX. of this Act, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty. It shall be the duty of the Officer adjudging confiscation to take and hold possession of the same, and it shall be the duty of every Officer of Police, on the requisition of such Officer, to assist him in taking and holding such possession.

On confiscation of vessel or goods, property to vest in Her Majesty.

CCXXIX. The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a General Fund, out of which it shall be lawful for the Chief Customs Authority of the Presidency or place to grant a reward to any person by whose information, assistance, or instrumentality, any seizure shall have been made or any offence punished.

Appropriation of penalties, &c., and grant of rewards.

Repealed by Act XIV of 1870.

A.

FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(See Section LXXIV.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

Please to comply with my request to be furnished wtth a license under Act VI of 1863 for a Warehouse situated at and about the distance of from the Custom House. The dimensions and other particulars of the godown are stated below. It is intended for the receptions of all goods, as a general store-house—*(or as the case may be)*.—The period of license not to exceed—*(mention the time for which required)*.

Particulars of Godown.

	Feet—Inches	
Length		Dry, airy, well flued and puckah built; can contain with perfect safety and convenience———tons of goods *(—as the case may be.—)*
Breadth		
Height		

This Godown is my own property—*(or the property of —from whom I have engaged the same on a lease of)*

(Signed) ( )

Place *Name of Applicant.*

Date

B.

FORM OF APPLICATION TO WAREHOUSE GOODS.

(See Section LXXV.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

Please to order the reception into the public warehouse *(or the private warehouse,*—of Mr. A. B., situate at and licensed by NO. dated) of the undermentioned goods, arrived from—*(Port or place to be mentioned)*—on the—*(British or other)*—ship whereof is Commander.

The Duty upon these goods has been adjusted in the manner specified below :—

Marks and numbers of package.	Description of packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of customs Duty.	Date and No. of importation.	Specification of the particulars of bonds if the duty upon goods has been bonded.
1.	2.	3.	4.	5.	6.	7.	8.

(Signed) ( )

Name of owner, agent, or consignee of goods.

Place

Date

C.

FORM OF BOND FOR IMPORT DUTY

(See Sections LXXVII. and LXXVIII.

BOND.

NO. 18

We, A. B.,

now of

; and C. D.

of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government Rupees to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves our heirs, and representatives ; and we agree that, in case of dispute touching the matter of this obligation or the conditions thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals (*date*)

(Signed)

The above bounden having applied to the Officer in

charge of the Custom House at
for, and obtained, permission to lodge in the warehouse
for a period of the following goods, that is to say—
imported by Sea from on board of the
ship and entered in the Custom House Books
as No. of the Register of Goods imported by Sea;

The condition of this Bond is, that;

If the their heirs, or representatives, shall observe all the rules prescribed in Act No. VI. of 1863 to be observed by owners, importers, or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof; And if the said their heirs, or representatives, shall pay to the Officer in charge of the Custom House at the Port of all dues, whether of Customs, warehouse dues, or lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them, within from the date of this Bond, or within such further time as the Chief Customs Authority of shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said Officer in charge of the Custom House;

And if, within the term so fixed, or enlarged, the said goods or any portion thereof having been removed from the said warehouse for home consumption or re-exportation by Sea, the full amount of all Customs Duties, warehouse dues, lawful charges, and penalties demandable as aforesaid shall have been first paid on the whole of the said goods;

This obligation shall be void.

Otherwise and on breach, or failure in the performance, of any part of this condition, the same shall be in full force.

Sealed with our seals, (*date*)

(Signed) ( )

D.

FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(See Section XCIX.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

Please to order to be passed from the public warehouse *(or private warehouse,*—of Messrs. A. & Co. situate at and licensed under Act VI. of 1863 by No. dated) the undermentioned goods intended for exportation by Sea on the ship whereof is Commander and which is bound to—*(or for internal consumption)*—the same having been entered in the books of your Office for the said warehouse, under No. dated by me—*(or by Messrs. B. & Co.—in the latter case add*—whose certificate of the transfer of the goods is wherewith annexed.)

Marks and No. of casses, B. and Co., *(Name of the goods)* No. 1 to 4, [] × ✓ Sealed, Warehoused for exportation,	Four cases of—*(name of goods)*—1 case,—*(box, bale, or parcel,)*—containing—*(here insert the quantity in each case.)* 1 Ditto. 1 Ditto. 1 Ditto. Four cases,—*(boxes, bales, or parcels)*—containing (—*total contents to be here stated.*—)

The Custom House value of the above is Government Rupees

(Signed) ( )

Name of owner, agent, or consignee of goods.

Place

Date

J

E.

FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(See Section CV.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

Please to permit the removal of the undermentioned goods from the public—*(or private)*—warehouse—*describe the warehouse*—to—*(the warehouse into which the removal is intended to be made must here be distinctly described)*—for the unexpired period of warehousing remaining in respect to the goods, the same having been originally entered by virtue of Act VI. of 1863 in the books of the warehousing department, No. dated for fifteen months—*(or such other period as may have been allowed)*—under the obligations and conditions at present attached to the goods.

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages.	Rate of value of goods.	Amount of value of goods as entered in Custom House books.	Rate of Duty chargeable or paid upon the goods.	Name of the Persons by whom goods first passed into warehouse.
1.	2.	3.	4.	5.	6.	7.

NOTE.—*If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.*

(Signed) ( )

Name of owner, agent, or consignee of goods.

Place
Date

F

FORM OF SHIPPING BILL—*(See Section CXXIII.)*

Shipping Bill.
1. Warehouse or drawback goods.
2. Foreign goods not for drawback.
3. Goods exported under special rule of restriction.
4. Country goods subject to Duty.
5. Country goods not subject to Duty.

(State, as described, the class to which the goods to be exported belong.)

Ships.	Whether British or Foreign; if Foreign, the Country.	Master's name.	Port or place of destination.	Marks.	Numbers.	Description of Packages.	Quantity, Quality, and Description of goods.	Rate of value for Duty.	Total value for Duty.	Declared real value under Section 26.	REMARKS.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.

☞ *Here state particulars according to the above headings.*

I claim drawback on
I declare the value of the goods above described to be
( )

Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in register of Custom House.

Name of Exporter or Agent. ( )

Name of Officer in charge of Custom House.

Dated *day of*

G.

FORM OF COASTING PASS—*(See Section CLIV.)*

Port of

Ship's name.	Tonnage.	Port of Registry.	Master's name.	Whither bound.	Foreign goods, duty paid.	Warehoused goods removed in bond.	Country goods.	Restricted goods and goods liable to duty of excise.
1.	2.	3.	4.	5.	6.	7.	8.	9.

☞ *Here state the particulars according to the above Headings.*

Cleared the day of 18

(*Signed*) ( )

(*Signed*) ( ) *Name of Master.*

Officer in charge of Custom House.

H.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See Section CLXIII.*)

We

are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government Rupees to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of judicature at

Sealed with our seals, dated this day of 18

(*Signed*)

( )

The above bounden being indebted to Her Majesty's Secretary of State for India in the sum of Government Rupees being the amount of Duty payable at the rate of Rupees per Imperial gallon London proof, for gallons of (*or for gallons of proof sprit used in the preparation of dozens of bottles or gallons of cordial and liquors as specified in the annexed Schedule*)—manufactured at which the said have been allowed to remove thence for exportation by Sea, subject to the provisions of Act VI. of 1863 without having paid such Duty.

The condition of this obligation is, that, if the above bounden their heirs, or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State Duty at the rate of Rupee per Imperial gallon of proof spirits for all or any portion of the above mentioned, which shall not have been then exported by Sea, subject to the aforesaid provisions (of which exporta-

tion, if any, due proof shall be given) or passed for local consumption on payment of Duty, then this Bond shall be void; otherwise the same shall remain in full force. Sealed and delivered in the presence of

Place

Date

If the bond be for cordials and other liquors under Section CLXX., add Schedule

Description of cordials and liquors.	Quantity in bottles or gallons.	Quantity of proof spirit.
1	2	3

ACT No. VIII. OF 1863.

(Received the assent of the Governor-General on the 23rd February.)

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1. Bombay Regulation IX. 1833, Act XVIII. of 1843, and Act V. of 1847 repealed.

2. Officers in charge of Mofussil Jails to give effect to sentences passed by any Court.

3. Warrant signed by an Officer of Court to be sufficient authority.

4. Government may authorize reception, detention, or imprisonment in British India of persons sentenced in Native States for Thuggee, Dacoity, Suttee, or Sumadh.

5. If Officer doubt the legality of a warrant or competency of person passing sentence, the matter to be referred to Government. Preamble.

6. Existing enactments and rules for the treatment and security of prisoners, to apply to prisoners confined under this Act.

An Act for the amendment of the law relating to the confinement of Prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of Prisoners convicted of offences in Native States.

Whereas it is desirable to amend the law relating to the confinement of Prisoners who have been sentenced by Courts acting under the authority of Her Majesty, or of the Government of India, or of any Local Government; and whereas it is expedient to make the same provision for the secure custody of persons convicted of participation in the offence of Suttee (burning alive) or Sumadh (burying alive) and of such other offences as the Governor-General in Council shall from time to time, by an order to be published in the Government Gazette, think fit to proscribe, within the Territories of Native Princes or States in alliance with Her Majesty, as is already made in regard to persons convicted of Thuggee or Dacoity in such States; It is enacted as follows:—

1 Repealed by Act XIV of 1870.

Officers in charge of Jails may give effect to sentences passed by certain Courts.

II. Officers in charge of Jails within the British Territories in India shall be competent to give effect to any sentence which shall be passed by any Court or Tribunal acting under the authority of Her Majesty, or of the Government of India, or of any Local Government, although such Court be not situate in a place not subject to the General Regulations. Provided that this Section shall not apply to any Officer in charge of any Jail or House of Correction within the local limits of the ordinary original Civil Jurisdiction of any Court established by Royal Charter.

Proviso.

Warrant of Officer of such Court to be sufficient authority.

III. A warrant under the official signature of an Officer of the Court or Tribunal as aforesaid shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

Government may authorize reception, detention, or imprisonment in British India of persons convicted of certain offences in Native States.

IV. It shall be lawful for the Executive Government of any part of the British Territories in India, to authorize the reception, detention, or imprisonment in any part of those Territories, for the periods specified in their respective sentences, of persons sentenced, within Territories of any Native Prince or State in alliance with Her Majesty, to imprisonment or transportation for the offence of Thuggee or Dacoity, or the offence of belonging to any gang of Thugs or Dacoits, or for participation in the offence of Suttee or Sumadh, or for such other offence as the Governor-General in Council shall from time to time, by an order published in the Government Gazette, think fit to prescribe. Provided always that such sentences shall have been pronounced after trial before a Tribunal in which an Officer of Government, duly authorized in that behalf by such Prince or State, shall be one of the presiding Judges. Every Officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation may be carried into effect.

Proviso.

Procedure of Officer in charge of Jail if he doubt the legality of any warrant sent to him for execution.

V. If any Officer in charge of a Jail shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be affixed thereto to pass the sentence and issue such warrant, such Officer shall refer the matter to the Government to which he is subject, by whose order on the case such Officer and all other public Officers shall be guided as to the future disposal of the prisoner. Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

Provisions of existing Acts, &c., relating to the treatment and security of prisoners generally, to apply to prisoners confined under this Act.

VI. The provisions of the existing Acts and Regulations, and all other rules in force for the treatment and security of prisoners confined in the said Jails, shall apply and be of equal force and effect in the case of prisoners confined therein under this Act, as in the case of other prisoners confined therein.

ACT No. IX. OF 1863.

(Received the assent of the Governor-General on the 23rd February.)

An Act to amend the Code of Civil Procedure.

Preamble.

Whereas the Code of Civil Procedure requires that appeals from decisions or orders to the Sudder Court shall ordinarily be heard and determined by two or more Judges of the said Court; and whereas in the Territories not subject to the general Regulations, the highest Civil Courts of Appeal, which are declared by Section 386 of Act VIII. of 1859 to be included in the expression "Sudder Court" in any part of the said Territories to which the said Code may be extended, generally consist of only a single Judge, and it is expedient to make provision for the powers to be exercised by such single Judge in hearing appeals from decisions and orders, or in proceedings relating to any other matter which may be brought before him; It is enacted as follows:—

In certain places the highest Civil Court of Appeal to have powers of Sudder Court.

I. When in any part of the British Territories in India to which the Code of Civil Procedure has been or shall be extended under the provisions of Section 385 of the said Code, the highest Civil Court of Appeal consists of a single Judge, such Judge shall have all the powers vested by such Code in two or more Judges of the Sudder Court.

No order or proceeding of such Court to

II. No order passed by or proceeding held before the single Judge of any such highest Civil Court of Appeal, subsequent to the extension of the Code of

Civil Procedure to such part of the British Territories in India, shall be deemed invalid or be liable to be questioned on the ground that such order or proceeding was passed by or held before a single Judge.

be void because passed or held by a single Judge.

ACT No. XIV. OF 1863.

(Received the assent of the Governor-General on the 10th March.)

1. The following suits to be cognizable only by Collectors of Revenue, in addition to those specified in Sections 23 and 24 of Act X. of 1859:—

(1) Suits by Lumberdars for arrears of Revenue.

(2) Suits by Co-sharers for profits or settlement of accounts.

(3) Suits by Maafeedars for arrears of Revenue.

(4) Suits by Talookdars for arrears of Revenue.

2. Suits under the preceding Sections to be instituted within 3 years from date of arrear or profits becoming due, or within one year after the period to which the accounts relate if the suit be for a settlement of accounts.

3. Rent paid by a ryot above the prevailing rate, to be an additional ground for abatement of rent.

4. The words "or by any other means not warranted by law" added to clause 2, Section 23.

5 Sections 34 and 86 repealed and two Sections substituted:—

Section XXXIV. Particulars to be stated in plaint to be presented to the Collector.

Section LXXXVI. Process of execution may be either against the person or property of the judgment-debtor.

6. Sections 243 and 244 of the Code of Civil Procedure to be applicable to decrees for money passed in suits under Act X. Such orders to be subject to revision by Revenue Authorities, but not open to appeal.

7. The words "or where the rent of a puttee is not collected by a Lumberdar, through the putteedar who is entitled to collect rent" added to Section 112.

8. Settlement Officers may be invested with powers for the decision of suits under Section 23 of Act X. or under this Act.

9. Such Officer to have power to determine disputes regarding the rates of rent payable by under-tenants and ryots.

10. Suits for enhancement of rent to be heard by such Officers notwithstanding notice of enhancement has been served.

11. Suits before such Officer for enhancement or abatement of rent may be brought collectively by or against ryots cultivating in the same Estate.

12. Decisions passed by such Officers open to appeal under Act X. Decrees passed before this Act not to be questioned for want of jurisdication or for defect in procedure.

13. Rents paid in kind or by valuation may be commuted to fixed money payments. Such decisions, already passed, to be legal and binding.

14. Provisions of the Code of Civil Procedure relative to arbitration to apply.

15. Water-rate payable to Government may be made over to a Lumberdar for collection, in the same manner as the collection of rent, and such rate (less commission) to be a charge on the estate of such Lumberdar.

16. Persons arrested under Section 145 of Act X. to be brought forthwith before the Collector for the trial of the case. Security to be given if case cannot be tried immediately, or person to be committed to the Civil Jail in the interim.

17. Decisions of Zillah Judge in regular appeal declared open to special appeal.

18. Act to be taken as part of Act X.

19. Act X. as amended by this Act, may be extended by the Governor-General in Council and the Lieutenant-Governors of the North Western Provinces and the Punjab to places under their respective Governments.

An Act to amend Act X. of 1859 (to amend the law relating to the Recovery of the Rent in the Presidency of Fort William in Bengal.)

Preamble.

Whereas it is expedient to amend Act X. of 1859) *to amend the law relating to Recovery of Rent in the Presidency of Fort William in Bengal*) so far as it relates

to the Territories under the Government of the Lieutenant-Governor of the North Western Provinces of the Presidency of Fort William in Bengal, and to authorize the extension of the Act to places to which it provisions do not now apply; It is enacted as follows.—

Suits cognizable by Collectors in addition to those specified in Sections 23 and 24 of Act X. of 1859.

I. In addition to the suits specified in Sections XXIII. and XXIV. of Act X. of 1859, the following suits shall be cognizable by the Collectors of Land Revenue under the provisions of the said Act, and, except in the way of appeal as provided in the said Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner, (that is to say):—

1st Suits by Lumberdars for arrears of Government Revenue payable through them by the Co-sharers whom they represent.

2nd. Suits by Co-sharers for their share of the profits of an estate or any part thereof after payment of the Government Revenue and village expenses, or for a settlement of accounts.

3rd. Suits by Maafeedars or assignees of Government Revenue for arrears of Revenue owing to them as such Maafeedars or assignees.

4th. Suits by Talookdars and other superior proprietors for arrears of Revenue or otherwise not being rent claimable under Section XXIII. of the said Act X. of 1859) due to them as such Talookdars or other superior proprietors.

Limitation of suits under preceding Section.

II. Suits instituted under the preceding Section shall be instituted within three years from the date when the arrear or the amount of profits claimed shall have become due; or, if the suit be for an arrear, or for profits due at the time of the passing of this Act, it shall be instituted within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. If the suit be for a settlement of accounts, the suit shall be brought within one year after the expiration of the year to which the accounts relate; or, in the case of any claim for such settlement now existing, within one year from the time of the passing of this Act or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

Additional ground for claim to abatement of rent.

III. In addition to the grounds mentioned in Section XVIII. of the said Act X. of 1859, upon which a ryot, having a right of occupancy, can claim an abatement of the rent previously paid by him, every such ryot may claim abatement on the ground that the rate of rent paid by him is above the prevailing rate payable by the same class of ryots for land of a similar description, and with similar advantages, in the places adjacent.

Addition to Clause 2 Section 28.

IV. Clause 2 of Section XXIII. of the said Act X. of 1859, shall be read as if the words " or by any other means not warranted by law" were added thereto.

Repeal and re-enactment of Sections 34 and 86.

V. From the date of the passing of this Act, Sections XXXIV. and LXXXVI. of the said Act X. 1859 shall cease to have effect in the Territories under the Government of the Lieutenant-Governor of the North Western Provinces, and shall not come into force in any place to which this Act shall be extended as hereinafter provided; and the following Sections are enacted in lieu thereof:—

Procedure in the institution of suits under this Act.

" Section XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance and value of the claim estimated according to any law for the time being in force for the valuation of suits; and the date of the cause of action."

Issue of process of execution.

" Section LXXXVI. Process of execution may be issued against either the person or the property of a judgment debtor, but process shall not be issued simultaneously against both person and property. Such process may be issued on the oral application of the judgment creditor, his agent, or mookhtar, made at the time the decree is passed, or thereafter upon the written application of the judgment creditor, his agent, or mookhtar. Process of execution against the person or moveable property of a debtor shall be in form E or F contained in the Schedule to the said Act X. of 1859, or to the like effect."

Certain provisions of Civil Procedure Code applicable to decrees in rent suits.

Revision and Appeal.

VI. The provisions of Sections 243 and 244 of the Code of Civil Procedure shall be applicable to decrees passed in suits under the said Act X. of 1859, or this Act, in which the Collector shall award a sum of money on account either of an arrear of Government Revenue, or of profits, or otherwise. Orders passed by a Collector under either of the said Sections shall be subject to revision by the Commissioner of the Division and the Sudder Board of Revenue, but shall not be open to appeal to the Civil Court.

Addition to Section 112.

VII. Section CXII. of the said Act X. of 1859 shall be read as if the words " or where the rent of a puttee is not collected by a lumberdar, through the putteedar who is entitled to collect the rent " were added at the end of such Section.

Local Government may invest Settlement

VIII. The local Government may invest any Officer employed in making or revising settlements of the Land Revenue, with the powers of a Collector as

described in the said Act X. of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such Officer, of the nature mentioned in Section XXIII. of the said Act, or in this Act, while such Officer is so employed.

Officers with certain powers.

IX. In the exercise of the powers given under the last preceding Section, the Officer so invested shall have power to determine all disputes existing between Zemindars, Talookdars, or other Sudder Malgoozars, or Farmers of land, or any person duly authorized on their behalf, and any dependent Zemindar, ryot, or other under-tenant of whatever denomination, regarding the rates of rent payable by such dependent Zemindar, under-tenant, ryot, or other tenant.

Matters cognizable by such Settlement Officers.

X. If a suit for enhancement of rent be brought before any Officer empowered under Section VIII. of this Act to hear the same, such suit shall be heard and determined by such Officer notwithstanding that no notice of enhancement shall have been served under Section XIII. of the said Act X. of 1859 on the party from whom such enhanced rent is claimed. In such case the statement of claim shall set forth the grounds on which such enhancement of rent is claimed. If a decree be passed in favor of the claimant, such decree shall have effect only from the commencement of the next agricultural year after the date of the decree.

Rule as to suits for enhancement of rent.

XI. Whenever a claim to enhancement or abatement of rent against or by any number of ryots is brought before an Office engaged in making or revising settlements, and empowered under Section VIII. of this Act to hear such claim, such ryots may be sued or may sue collectively; and it shall be no ground for dismissing or refusing to hear the claim that such ryots are wrongly joined as plaintiffs or defendants, provided all such ryots cultivate in the same Estate: but no decree shall be passed in any such case in which an enhancement of rent is claimed, unless such Officer as aforesaid shall be satisfied that every ryot has had an opportunity to appear and make objection to the claim preferred against him. Provided also that every decree passed in any such case shall specify the extent to which each of the ryots named in the decree shall be affected thereby.

Provision for suits by or against ryots collectively.

XII. All decisions passed under the foregoing Sections by an Officer engaged in making or revising settlements, and invested as above, shall be open to the same appeal as is given by the said Act X. of 1859 in respect to decisions passed by a Collector in suits of the same description. Provided that no decree passed in any such suit by an Officer engaged in making or revising settlements before the passing of this Act, shall be open to question solely on the ground of want of jurisdiction in the Officer who passed such decree, or of any error, defect, or irregularity in procedure not productive of injury to either party, but an appeal shall lie against such decree in like manner as if the suit had been decided under this Act.

Decisions liable to appeal.

Proviso as to former decisions.

XIII. In all cases in which rents have heretofore been paid in kind, or by the estimated value of a portion of the crop, it shall be lawful for an Officer employed in making or revising the settlement of the Land Revenue, on the application either of the payer or the receiver of the rent, to commute such rent into a fixed money payment. The rate or amount of rent thus fixed shall be binding upon the parties concerned, subject to the provisions of the said Act X. of 1859. All decisions already passed by any such Officer, commuting rents in kind, or by valuation, to fixed rents in money, shall, subject to the same appeal as is given by the said Act X. of 1859 in respect to decisions passed by a Collector in suits under the said Act, be legal and binding.

Commutation of rents in kind to fixed money payments.

XIV. The provisions of Chapter VI. (relative to Arbitration) of the Code of Civil Procedure shall apply to suits under the said Act X. of 1859, and under this Act.

Arbitration Chapter of Civil Procedure Code made applicable.

XV. In any District through which any canal passes, in respect of which any water rate is payable to Government, it shall be lawful for the local Government to appoint any proprietor or farmer of an estate through which such canal passes in such District, with the consent of such proprietor or farmer, to be a lumberdar for the collection of such water rate in such estate, and thereupon the amount annually payable on account of such water rate by the dependent Zemindars, ryots, and other under-tenants in such estate, shall (subject to such abatement on account of commission or otherwise as shall be allowed by the local Government to such lumberdar,) be held to be a charge on the estate of such proprietor or farmer, and shall be added to the assessment payable to Government in respect of such estate, and the amount thereof shall be recoverable in like manner as the assessment on such estate, and for the purpose of collecting such water rate from the dependent Zemindars, ryots, and other tenants in such estate liable thereto, such lumberdar shall have the like powers and shall be subject to the same rules as are provided in any law for the time being in force in respect of the collection of the rent of land.

Provision for collection of water rate.

Rule as to person arrested under Section 145 of Act X.

XVI. If any person shall be arrested under Section CXLV. of the said Act X. of 1859, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case. If the case cannot be at once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required. In default of such security, the party arrested may be committed to the Civil Jail until the case is tried.

Special appeal from decisions of Zillah Judge under Act X. of 1859.

XVII. Doubts having been entertained as to whether the decisions passed by a Zillah Judge in regular appeal under the said Act X. of 1859 are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open special appeal to the Sudder Court in the same manner, and subject to the same rules, as the decisions of Zillah Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

Construction of Act.

XVIII. This Act shall be read and taken, in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and in all places to which this Act shall be extended under the next following Section, as part of the said Act X. of 1859.

Power to extend the Act.

XIX. It shall be lawful for the Governor-General of India in Council to extend the provisions of Act X. of 1859 as amended by this Act to any Territories immediately administered by the Government of India, or for the Lieutenant-Governors of the North-Western Provinces and of the Punjab, respectively, to extend the said Act amended as above to any part of the Territories under the respective Governments, in which the said Act X. of 1859 is not now in force. Whenever the said Act, amended as above, shall be so extended, the Governor-General of India in Council, or the Lieutenant-Governor who shall so extend the same, shall declare by what Officer in the said Territories or any parts thereof, to which the said Act X. of 1859 amended as above shall be extended, the powers given by the said Act shall be exercised, and such Officers shall thereupon be authorized to exercise such powers.

ACT No. XV. OF 1863.

(Received the assent of the Governor-General on the 10th March.)

1. Repeal of Sections 17, 21, 18, and 82 of Act I. of 1859 and of Act XXVIII. of 1861.

2. Sections IX. to XVI. of Act I. of 1859 not to apply to ships registered under Act X. of 1841, and manned by Asiatic Seamen trading between Ports in India and the Coast of Arabia; nor to ships under 200 tons so registered and manned, trading between the Straits' Settlement and the Gulf of Siam or the Eastern Archipelago.

3. The Master of every ship, except Home-trading ships under 300 Tons, to enter into an agreement with every Seaman and other Native whom he carries to sea from any Port in India. Form, particulars, and stipulations of such agreements.

4. Where there is no Admiralty Court, the Courts of ordinary original Criminal jurisdiction empowered to try charges of incompetency or misconduct on the parts of Masters, &c., having certificates from the Board of Trade, and with the sanction of the local Government to suspend or cancel such certificates.

5. Decision to be stated in open Court and a report of the case to be sent to the Board of Trade.

6. Local Government may order an investigation in cases where a Shipping Master reports that a certificated Master is unfit to discharge his duties.

7. In cases under Sections IV. or VI., the Court. Board, or Officer may summon the defendant and examine witnesses. Costs may be enforced as fines.

8. Local Government may cancel or suspend certificates granted in India, if a wrongful act or default be proved under Sections 100—102 of Act I. of 1859, or if incompetency or misconduct be proved under Section 6 of this Act; if a wrongful act or default or misconduct shall have been proved to the satisfaction of a competent Court, or if the certified person shall have been superseded by any Admiralty or Naval Court, or if he has been convicted of any offence.

9. Penalty for not delivering up a certificate which has been cancelled or suspended.

10. Where there is no Admiralty Court, the power to remove a person having an India Certificate to be exercised by the principal Court of Ordinary Criminal jurisdiction.

11. Act to be read as part of Act I. of 1859.

An Act to amend Act I. of 1859 (for the amendment of the law relating to Merchant Seamen.)

Preamble.

Whereas it is expedient to amend the provisions of Act I. of 1859 (*for the amendment of the law relating to Merchant Seamen*) in so far as the said Act relates to agreements with Natives of India; to vessels trading from the Straits' Settlement to the Gulf of Siam, and the Eastern Archipelago; and to the cancelment and suspension of certificates of competency and service; It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

Sections IX. to XVI. of Act I. of 1851 not to apply to ships registered under Act X. of 1841, under certain circumstances.

II. Sections IX. to XVI. of the said Act I. of 1859 shall not apply to ships registered under Act X. of 1841 (*for prescribing the rules to be observed, in order that ships or vessels belonging to Ports within the Territories under the Government of the East India Company, or belonging to Native Princes or States, or their Subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council, made in pursuance of the Statute 3 and 4 Victoria Chapter 56*), and trading between Ports in India and the Coast of Arabia, when such ships are navigated and manned exclusively by Arab,s Lascars, or other Asiatic Masters and Seamen, or to ships of less than two hundred tons burden registered under the said Act X. of 1841, and trading between any Port of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and the Gulf of Siam, or the Eastern Archipelago, when such ships are navigated exclusivly by Malays, Lascars, or other Asiatic Masters and Seamen.

Agreements with seamen and others.

III. The master of every ship except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every Seaman, and with every Native of India not being a Seaman, whom he carries to sea from any Port in India as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor-General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the Master before any Seaman or other person aforesaid signs the same, and shall contain the following particulars as to terms thereof; (that is to say)—

1.—The nature and, as far as practicable, the duration of the intended voyage or engagement.

2.—The number and description of the crew, specifying how many are engaged as Sailors.

3.—The time at which each Seaman and each Native of India not being a Seaman is to be on board or to begin work.

4.—The capacity in which each Seaman and each Native of India not being a Seaman is to serve.

5,—The amount of wages which each Seaman and each Native of India not being a Seaman is to receive.

6.—A scale of the provisions which are to be furnished to each Seaman and to each Native of India not being a Seaman.

7.—Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted, and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the Master and Seaman, and each Native of India not being a Seaman, in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law. Provided that, if the Master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages single Seamen, or any Native of India not being a Seaman, in any Port in India, such Seamen or other person aforesaid may sign the agreement so made, and it shall not be necessary for such Seaman or other person aforesaid to sign an agreement under this Act. Provided also that, in the case of Lascars or other Native Seamen, and every Native of

Proviso as to forms for British or Colonial ships.

Proviso where Lascars, &c., are shipped.

India not being a Seaman, when it shall be agreed that the service of any such Seaman or other person aforesaid shall end at any Port not in India, the agreement shall contain stipulations for providing for such Seaman, or other person aforesaid fit employment on board some other vessel bound to the Port at which he was shipped, or such other Port as may be agreed on, or for providing for him a passage to some such Port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel, or by the Master on his behalf.

Court authorized to enquire into charges against Masters, Mates, and Engineers, and to report to local Government.

IV. Every Court having Admiralty Jurisdiction in India, and the Principal Court of Ordinary Criminal Jurisdiction at every Port in India where there is no Court having Admiralty Jurisdiction, is hereby authorized to investigate and try charges of incompetency or misconduct on the part of any Master, Mate, or Engineer of any ship, who shall have obtained his certificate from the Board of Trade, and to make enquiry as to shipwreck or other casualties affecting any ship; and if on such investigation it shall appear to any such Court as aforesaid, that the loss or abandonment, of, or any serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of any such Master, Mate, or Engineer, or that any such Master, Mate, or Engineer has been guilty of any gross act of misconduct, drunkenness, or tyranny, such Court may suspend, for such period as it shall think fit, or may cancel, such certificate, whether of competency or service, of such Master, Mate, or Engineer, and the Court shall report the same to the local Government within whose limits such Court is situated. Provided that no certificate shall be cancelled or suspended, unless a copy of the Report, or a Statement of the case upon which the investigation is made, shall have been furnished to the owner of the certificate before the commencement of the investigation. Provided also that the Report of such Court is confirmed by the Governor or other person administering the local Government wherein such Court is held.

Proviso.

Procedure of such Court.

V. Every Court by which any investigation or trial is held under the last preceding Section shall, at the conclusion of the case, or as soon afterwards as possible, state in open Court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full Report upon the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their Report.

Local Government may direct investigation in cases of incompetency and misconduct.

VI. If the local Government, on the information of any Shipping Master, or on any other ground, has reason to believe that any Master or Mate who has obtained a certificate of competency or service from such Government, or from any other local Government, is, from incompetency or misconduct, unfit to discharge his duties, it may direct any Board or Officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or Officer shall conduct the investigation into such charge of incompetency or misconduct, and shall, on the conclusion of the investigation, make a Report upon the case to the local Government which ordered the investigation.

Powers of Court, &c., in making enquiry.

VII. For the purpose of any such enquiry under Section IV. or Section VI., the Court, Board, or Officer may Summon the Master, Mate, or Engineer, as the case may be, to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses, and may make such order with respect to the costs of such investigation, and may require such security for costs, as such Court, Board, or Officer may deem just. Every order in respect of costs under this Section may be enforced in like manner as a fine may be enforced by a Magistrate in the Port where such investigation his held.

Local Government may cancel certificates or suspend them in certain cases.

VIII. The local Government may suspend or cancel the certificate (whether of competency or service) granted by such local Government, or by any other local Government, under the said Act I. of 1859, to any Master or Mate, in the following cases; (that is to say)—

Abandonment, loss, or serious damage by default of Master or Mate.

Clause 1. If upon any investigation conducted under the provisions of Sections C., CI., and CII. of Act I, of 1859, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default.

Incompetency, gross misconduct, drunkenness, or tyranny of master or mate.

Clause 2. If upon any investigation held under Section VI. of this Act, the Master or Mate shall be reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

Or after other investigations.

Clause 3. If upon any investigation held under the provisions of the Merchant Shipping Act 1854, or the Merchant Shipping Amendment Act 1862, or upon any investigation made by a Naval Court constituted as is provided by any law for the time being in force, or upon any investigation made by any Court or

Tribunal authorized or hereafter to be authorized by the Legislative authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships, or as to shipwreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default; or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny. Provided always that, in the case of any Report by any such last-mentioned Court or Tribunal, the Report shall have been confirmed by the Governor or person administering the Government of such possession.

Supersessions.

Clause 4. If he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act of 1854, or any other law for the time being in force.

Conviction of any offence.

Clause. 5. If he is shown to have been convicted of any offence.

Certificate to be given up—under a penalty.

IX. Every Master or Mate, or Engineer whose certificate is cancelled or suspended under the provisions of this Act, shall deliver it to the Shipping Master, or to such other person as the Court or the local Government which cancelled or suspended the certificate shall direct, and in default shall, for each offence, incur a penalty not exceeding five hundred Rupees. Provided that if the local Government which cancels or suspends a certificate of a Master or Mate is not the local Government that granted the same, the local Government which so cancels or suspends the certificate shall report the proceedings, and the fact of cancelment or suspension, to the local Government which granted such certificate. Provided also that it shall be competent to any local Government at any subsequent time to grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Proviso for report to other local Governments.

Saving of powers vested in certain Admiralty Courts.

Same powers may be exercised by Chief Criminal Court in Indian Port, where there is no Admiralty Court.

X. Nothing in this Act shall be held to affect the powers of removal vested by Section CCXL. of the Merchant Shipping Act of 1854, or Section LXXX. of the said Act I. of 1859, in Courts having Admiralty Jurisdiction in India. The said powers may be exercised by the principal Court of Ordinary Criminal Jurisdiction at any Port in India where there is no Court having Admiralty Jurisdiction, if the Master or Mate shall have received his certificate from any local Government.

Act to be taken as part of Act I. of 1859.

XI. This Act shall be read and taken as part of the said Act I. of 1859.

ACT No. XVI. OF 1863.

(Received the assent of the Governor-General on the 10th March.)

1. *Spirits intended to be used in Manufactures, &c., may be removed from Distillery on payment of a Duty of ten per cent. after having been rendered unfit for human consumption.*

2. *Board of Revenue to make Rules for rendering such spirits unfit for human consumption, and for fixing the value thereof.*

3. *A penalty of 500 Rs. for contravention of such Rule.*

4. *Person attempting to render fit for consumption spirits removed under this Act liable to a penalty of 1,000 Rs., and the possessor of such spirits to a penalty of 500 Rs.*

5. *Penalties may be levied by distress.*

6. *If penalty be not paid, offender may be detained pending return of distress warrant, unless security be given.*

7. *If penalty cannot be levied by distress, offender may be imprisoned in the Civil Jail for certain specified periods.*

8. *Provisions of Sections 11 of Act III. of 1852 not to apply to spirits rendered unfit for consumption under this Act.*

9. *In case of conviction under Sections 3 or 4, the spirits, together with the vessel containing them, and the cart, boat, and the animals conveying them, liable to confiscation.*

An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.

Preamble.

Whereas it is expedient to make special provision for the levy of the Excise Duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry; It is enacted as follows:—

Spirits intended for use in Arts, &c., may be removed from Distillery on payment of Duty.

I. Spirits intended to be used exclusively in Arts and Manufactures or in Chemistry may be removed from any licensed Distillery in any part of British India on payment of Duty calculated at ten per cent. on the value of the Spirits, provided that no Spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

How to ascertain that such spirits have been rendered unfit for human consumption, etc.

II. The Board of Revenue, or other Authority specially authorized in that behalf by the local Government, shall prescribe from time to time, subject to the approval of the local Government, rules for ascertaining and determining that Spirits proposed to be removed for the purpose aforesaid have been effectually and permanently rendered unfit for human consumption, as required by Section I. of this Act; for causing such Spirits to be so rendered, if necessary, by its own Officers at the expense of the person who wishes to remove them; and for fixing the value of the Spirits on which the *ad valorem* Duty shall be levied.

Penalty for breach of such rules.

III. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other Authority as aforesaid, under the last preceding Section of this Act, shall be liable, on conviction before any Officer exercising the powers of a Magistrate, to a penalty not exceeding five hundred Rupees for every such offence.

Penalty for attempting to render such spirits again fit for human consumption.

IV. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, Spirits removed from a Distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand Rupees; and the possessor of such Spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable, on conviction before any Officer exercising the powers of a Magistrate, to a penalty not exceeding five hundred Rupees.

Such penalty how to be levied.

V. Any penalty imposed under either of the last two preceding Sections may, in case of non-payment, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the Officer by whom such penalty was imposed.

In case of the non-payment of a penalty, offender may be detained pending return to the warrant.

VI. In case any such penalty shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender in case of failure to recover penalty by distress.

VII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he had not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand commit the offender to the Civil Jail, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two Calendar, months when the amount of penalty shall not exceed fifty Rupees, and for any term not exceeding four Calendar months, when the amount shall not exceed one hundred Rupees, and for any term not exceeding six Calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Section 11 Act III. of 1852 not to apply to spirits rendered unfit for consumption under this Act.

VIII. The prohibition contained in Section XI. of Act III. of 1852 (*to amend the law relating to spirituous and intoxicating liquors, drugs, and preparations within the Territories subordinate to the Presidency of Bombay*) against mixing any noxious drug or material in, or by other process adulterating, Spirit, manufactured under the provisions of Regulation XXI. of 1827 of the Bombay Code, or of the said Act III. of 1852, shall not apply to Spirits rendered unfit for human consumption under this Act.

Confiscation in cases of conviction under Sections 3 or 4.

IX. In every case of conviction under Section III. or Section IV. of this Act, the liquor or Spirits with the cask or vessel containing the same, and the cart, boat, and the animal or animals employed in carrying such liquor or spirit, shall be liable to confiscation.

ACT No. XVIII. OF 1863.

(Received the assent of the Governor-General on the 10th March.)

1. *Power to Master to Summon parties &c. to settle and wind up proceedings before him, and to proceed ex parte in case of the death or absence of parties or neglect of their Solicitors to attend.*

2. *In case Master be unable to dispose of any matter, he may report thereon, and the Court may thereupon make order for the prosecution and final disposal of the suit and for payment of costs.*

3. *If Reports be not brought before the Court within time fixed by Master, Registrar to do so.*

4. *No fresh references to be made to Master, except in suit already before him.*

5. *Powers of Master to be in future exercised by the Judges.*

6. *Power to Court to dismiss suits, upon certificate of Master that no proceedings have been taken for a year.*

7. *Division Court may refer matters of account or detail for the consideration of a single Judge, whose report to be final, except on an appeal of the whole case.*

8. *High Court to make Rules for guidance of Master and for regulating the procedure of single Judge as aforesaid.*

9. *Proviso of Section 4 of Act V. of 1840, exempting H, M.'s Courts from the operation of the Act, repealed. Form of Affirmation for verifying an affidavit.*

10. *Except writs of summons to defendants, and writs of execution, all Civil judicial processes may be served by the Attorneys in the suit or as the Court shall by Rule direct.*

11. *Judicial process need not be signed by the Judges of the High Court, but may be signed by such Officers as to the Court may seem fit.*

12. *Act may be extended to the High Courts at Madras and Bombay by the Governors in Council of those Presidencies respectively.*

An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.

Preamble.

Whereas at the time of abolition of the late Supreme Court of Judicature at Fort William in Bengal, many matters which had been referred to the Master of the said Court were pending before him, and many of them are still pending before the Master of the High Court, and it is expedient that all such matters should be wound up and determined as expeditiously as possible; and whereas it is expedient that the law concerning the administration of Oaths to Hindoos and Mahomedans in such Court should be assimilated to the law concerning such Oaths in Courts not established by Royal Charter; and that the Code of Civil Procedure should be amended in respect of process issued out of the said High Court in the exercise of its Ordinary Original Civil Jurisdiction; It is enacted as follows: —

I. Repealed by Act VIII. of 1868.

II. Ditto Ditto.

III. *Ditto Ditto.*

IV. *Ditto Ditto.*

All the powers of Master may be exercised by Judges.

V. From and after the passing of this Act, all or any of the powers, authorities, and jurisdiction, which at the time of the abolition of the said Supreme Court were vested in the Master in Equity, may be exercised by the High Court, or by a Judge of the Said Court.

Power to Court to dismiss suits upon certificate of Master that no proceedings have been taken for a year.

VI. Whenever it shall appear from the certificate of the Master that no proceedings have been taken in his Office for a period of one year in any reference pending before him, the Court shall have power to dismiss such suit, or to make such other order or decree in the suit as to the Court shall seem fit.

Power of Division Court to refer matters for investigation by a single Judge.

VII. It shall be lawful for any division Court consisting of more than one Judge to adjourn, for the consideration of a single Judge, any matters of account, detail, or other description which, in the opinion of such Court, may be more conveniently investigated by a single Judge sitting in Chambers, and such matters shall thereupon be investigated by a single Judge who shall proceed with such investigation sitting either in Chambers, or in open Court, and shall report thereon to a division Court, and such report shall as regards such division Court

be final, but shall be open to revision by any Court of Appeal to whom the order or decree founded thereon may be appealed. The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation.

Power to make rules.

VIII. The said High Court shall have power to make general rules or orders for winding-up the business now pending in the Office of the said Master, and generally for regulating the conduct of business, and the manner in which the same shall be transacted, in the Master's, office, and for regulating the procedure of a single Judge touching investigation before him under the provisions of this Act. Provided that such rules and orders shall not be inconsistent with the provisions of this Act, or of any Act for the time being in force relating to such matters.

Extension of Act V. of 1849, concerning oaths and declarations of Hindoos and Mahomedans, to High Court.

IX. The proviso contained in Section IV. of Act V. of 1840 (*concerning the oaths and declarations of Hindoos and Mahomedans*), that the said Act shall not apply to any declaration or affirmation made in any of Her Majesty's Courts of Justice, is hereby repealed, and Section I. of the said Act V. of 1840 shall be read as if the words following had been added thereto :

"And when verifying an Affidavit to the following effect :—I solemnly affirm in the presence of Almighty God that the signature to this is may name and handwriting, and that the contents of this Affidavit are true."

Process from High Court may be served by Attorneys and others.

X. After the passing of this Act notice to produce documents or writings, summonses to witnesses, and all other judicial process issued in the exercise of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at fort Willian in Bengal except writs of summons to defendants issued under Section XLI. of Act VIII. of 1859 (*the Code of Civil Procedure*) and writs of execution, may be served by the Attorneys in the suit, or by persons employed by them, or in such other manner as the said High Court shall by any rules or orders from time to time direct.

Not to be necessary for a Judge to sign process.

XI. It shall not be necessary for a Judge of the said High Court to sign any writ, order, summons, or other judicial process issued or made in the exercise of the Ordinary Original Civil Jurisdiction of the said High Court. The said High Court shall have power from time to time to direct that such writs, orders, or other process shall be signed by such Officer or Officers of the said Court as to the Court may seem fit.

Extension of the Act to the High Courts at Madras and Bombay.

XII. This Act may be extended to the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, by an order of the Governor in Council of Fort Saint George, and the Governor in Council of Bombay, respectively, to be published in he Official Gazettes of Madras and Bombay, respectively ; and when so extended by such order, shall take effect in the said Courts from the date of the publication of such order. When so extended to either of such High Courts, this Act shall in all respects apply to such High Court in the same manner as if the name of such High Court had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

ACT No. XIX. OF 1863.

(*Received the assent of the Governor-General on the 10th March.*)

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1. *Repeal of Regulation IX. of 1811, XI. of 1811, and XIX. of 1814 of the Bengal Code, and Acts XX. of 1836 and XI. of 1838. Pending partitions to be proceeded with as if this Act had not been passed.*

2. *Future partitions to be made under this Act.*

3. *Every recorded proprietor of a joint undivided rent-paying estate may claim partition.*

4. *Written application to be made to Collector. Two or more proprietors may apply to have separate shares in a joint estate.*

5. *Collector may reject application if it does not state the nature of the tenure. the names of the co-sharers, the nature and extent of their shares, and the mode of partition desired.*

6. *Collector to invite party in possession, objecting to application, to appear, and shall serve notice on proprietors who have not joined in the application, and if service cannot take place, proclamation to be made.*

7. In case of valid objection to partition by party in possession, application may be refused, the grounds thereof being recorded.

8. Collector may inquire into questions of title or of proprietary right under the Code of Civil Procedure, or may refer them to arbitration.

9. Decisions under preceding Section open to appeal to District or Sudder Court according to value of claim. Pending decision of appeal, Court may order partition to be stayed.

10. Special appeal from decisions of District Court to lie to the Sudder Court.

11. Suits for partition not to be entertained by Civil Court, unless on appeal from decision of Collector.

12. On ordering a partition, Collector to publish a notification intimating his intention.

13. Partition to be made by Collector of District. If estate be situate in two or more districts, by the Collector whom the Commissioner of the Division may order of do so. If in two or more Divisions, by such Collector as the Board of Revenue may order.

14. Expense of making partition to be fixed by Collector: if not paid, amount may be realized as arrears of rent or Revenue.

15. Commissioner, on report of Collector, may stay partition and quash proceedings. Such order not open to revision by Civil Court.

16. After 30 days from date of notification, Collector to cause a measurement to be made, and a rent-roll to be prepared. Any proprietor may file a rent-roll acknowledged to be correct.

17. Collector may examine the parties regarding the papers produced, and shall hear objections of share-holders.

18. After completion of inquiry under preceding Section, Collector may allow the parties the option of making a private partition or of referring it to arbitration. Partitions so made to be subject to confirmation of Revenue Authorities.

19. If parties cannot agree as to appointment of arbitrators. Collector may appoint two or more, and shall act as umpire.

20. If an arbitrator refuse to act, or die, another person to be appointed.

21. Collector to exercise towards the arbitrators the same powers as he can exercise towards witnesses. Collector to fix and may extend time for delivery of paper of partition.

22. Paper of partition to specify the separate estates, the persons to whom they are to be allotted, and the amount of public Revenue on each.

23. Arbitrators entitled to reasonable fees, to be fixed by the Collector.

24. In default of award within the time fixed, Collector may refer the partition to other arbitrators.

25. If the partition cannot be made by the parties or by arbitration, Collector to appoint an Officer for the purpose, and to fix a time for the making of the partition.

26. Officer to issue a proclamatioa to the proprietors.

27. Estate may be attached and brought under khas management under superintendence of Officer: collections to be divided amongst proprietors, after payment of Government Revenue.

28. If arrears of Revenue accrue during partition, proprietors may pay their quota separately; but until the partition shall have been completed, entire estate to be held responsible for the Revenue.

29. Partition Officer to have same power as Collector for making a measurement and map.

30. If lands be held in common, Collector to declare rule of division. By agreement of parties, Collector may cause transfers of land to be made.

31. If a compact estate cannot be formed and parties decline to agree to transfers, Collector may refuse to declare such lands a separate mehal.

32. When there are no lands in common, lands in severalty may be assessed and declared a separate estate, subject to any transfers of lands orderd under Section 30.

33. If, after proclamation, sharer fail to attend, his objection not be heard without sufficient reason.

34. Partition may at any time be stopped, if sharers so desires; sharers to pay costs and expenses incurred.

35. Estates to consist, as far as possible, of contiguous mehals or villages, and to be made as compact as possible.

36. Revenue to be assessed on each estate according law.

37. In selecting the villages or lands to be included in each estate, local circumstances to be considered. Lands held in severalty to be left undisturbed as far as practicable.

38. On payment of an equitable rent, dwelling-houses, with their buildings and grounds, may be held by one sharer on land allotted to another.

39. Extent of use and proportion of the charges to be borne in regard to tanks wells, &c., to be fixed in the paper of partition, when they are continued the joint property of two or more proprietors.

40. Places of worship held in common to continue to be so held, unless the parties otherwise agree.

41. Paper of partition to show in detail how the estate is to be divided, and the apportionment of the Revenue, and to be accompanied by a map showing the several divided estates.

42. Collector to dispose of objections to the proposed patition, and to submit a report to the Commissioner, who may confirm the partition or direct a modification thereof.

43. Decision of Commissioner open to appeal to the Board of Revenue but not to revision by the Civil Court. In cases of equal divisions, parties may be directed to draw lots.

44. Order of Commissioner or Board of Revenue to be published, and proprietors to be put in possession.

45. Government may order new allotment of Revenue among estates formed by partition, if within 12 years fraud or error in original allotment be proved, party under-assessed to pay to party over-assessed the amount of over-assessment.

46. Neglect or omissin to claim any right or title in an estate, while such estate is under attachment for purposes of partition, to be a valid plea in bar of future institution of such suits.

47. The holder of a decree of a Civil Court, awarding a right to partition of an estate, may apply for partition. Collector to proceed thereon under this Act.

48. Estates, originally undivided, may be united if possessed by one person, and shares of estates held by two or more persons may be united and held as one estate.

49. Applications for such unions to be made to Collector.

50. Provisions of Act relating to completion and confirmation, and to staying or quashing, of partitions, may be applied to pending cases.

51. Act may be applied, by order of the local Government, to partitions of rent-free estates.

52. Collector to be subject to the general direction and control of the Commissioner and the Board of Revenue

53. Unless otherwise provided, and except as to decisions under Section 9, orders of Collector open to revision by the superior Revenue authorities.

54. Powers of Collector may be exercised by any Officer vested with the full powers of a Collector.

55. The Collector or other Partition Officer to exercise the powers described in Regulations II. of 1819, VII. of 1822, and IX. and XIV. of 1825.

56. Collector to have same power as that vested in a Civil Court in respect of persons guilty of the offences of giving or fabricating false evidence, or of forgery.

57. In cases not provided for by law, Board of Revenue to be guided by instructions of local Government.

58. Interpretation.

59. Act to extend only to the Regulation Provinces of the N. W. Provinces, but may be extended to any Non-Regulation Province under such Government.

An Act to consolidate and amend the Law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal.

Preamble. Whereas it is expedient to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal; It is enacted as follows :—

I. Repealed by Act XIV. of 1870.

II. * * * * all partitions of estates which shall be ordered to be made by the Officers of Government after the passing of this Act, shall be made under the provisions of this Act, whatever may be the tenure of the estate ordered to be divided.*

Future partitions to be made under this Act.

III. Every recorded proprietor of a joint undivided estate paying Revenue to Government, or of any portion thereof, whether such estate is held in common tenancy or otherwise, is entitled to claim partition under this Act.

What parties shall be entitled to partition.

IV. When any one or more of the recorded proprietors of an estate, as described, in the last preceding Section, shall desire to have his or their shares of the estate separated, in order that he or they may hold the same as a separate property, or as separate properties, such proprietor or proprietors shall make a written application for the purpose to the Collector of the District. Any two or more proprietors may apply to have their shares separated, and to hold the same as a joint estate.

Parties desirous of partition to apply to Collector in writing.

V. The application shall be signed by the party or parties applying for the partition, and shall specify the nature of the tenure of the estate sought to be divided. The names of all the co-shares in the estate, the nature and extent of their respective shares so far as the same may be known to the applicant or applicants, or can be ascertained by him or them, and the mode of partition desired, shall also be stated. If the application does not contain the particulars above-mentioned, the Collector may reject it.

Application to be signed, and certain particulars specified.

Otherwise may be rejected.

VI. The Collector, on the receipt of an application for partition, shall, if the application be in order, and not open to objection on the face of it, publish a Notification of the same at his Office, and at some conspicuous place on the estate to which the application relates, and shall invite any party in possession, who may not have joined in the application, and who may object to the partition applied for, to appear before him either in person or by a duly constituted agent, on a day to be specified in the Notification, not being less than fifteen, or more than thirty days from the date of the Notification, and state his objection. If the application for partition shall not have been made by all the recorded proprietors of the estate, notice of the application shall be served, in the manner usual in the District for serving notices of the Revenue Officers, on such of the recorded proprietors of the estate as shall not have joined in the application. Provided that, if from any cause such service can not take place, a proclamation notifying such application shall be published, by affixing it at the Maal Cutcherry of such estate, or other conspicuous place thereon, or at the village Chourie, Choupal, or other conspicuous place in each village in such estate.

Procedure of Collector on receipt of application.

Notice to proprietors who have not joined therein.

Proclamation in case of service of notice being impracticable.

VII. If any objection be made to the partition, by any party in possession, within the time allowed, and the Collector, on a consideration of such objection, be of opinion that there is any good and sufficient reason, not inconsistent with the provisions of this Act, why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

In case of valid objection being made within time allowed, application may be refused.

VIII. If the objection raise any question of title, or of proprietary right, which shall not appear to have been already determined by a Court of competent Jurisdiction, the Collector may either decline to grant the application until the question in dispute shall have been determined by a competent Court, or he may proceed to inquire into the merits of the objection. In the latter case the Collector, after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests in the actual possession of the party or parties applying for the partition, and any other party or parties who may be affected thereby. The procedure to be observed by the Collector in trying such cases shall be that laid down in Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) for the trial of original suits, and the Collector shall have power to refer any question that may arise in such case to arbitration, and the provisions of Chapter VI. (relative to arbitrators) of the Code of Civil Procedure shall apply to cases so referred by a Collector.

Procedure if question of title, or of proprietary right be raised.

Reference to arbitrators.

IX. All orders and decisions passed by the Collector under the last preceding Section, for declaring the rights of parties, shall be held to be decisions of a Court of Civil Judicature of first instance, and shall be open to appeal to the District or Sudder Court, according to the value of the claim, under the rules applicable to regular appeals to those Courts. Upon such appeal being made, the District or Sudder Court, as the case may be, may issue a precept to the Collector, desiring him to stay the partition pending the decision of the appeal.

Decision of Collector equivalent to decision of Civil Court, and open to appeal.

Appellate Court may, on appeal, stay partition.

X. From every decision passed under the last preceding Section by a District Court, a special appeal shall lie to the Sudder Court, under the rules for the time being in force relating to special appeals to that Court.

Special Appeal to Sudder Court.

* The words omitted from this Section have been repealed by Act XIV of 1870.

Civil Court to entertain suits only on appeal from Collector.

XI. It shall not be competent to the Civil Court to entertain a suit, or application for the partition of an estate, except on appeal from the decision of the Collector as hereinbefore provided, anything contained in Section 225 Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) to the contrary notwithstanding.

Notification on partition being ordered.

XII. When the Collector, after disposing of the objections (if any) taken to the partition, shall order a partition to be made, he shall cause a Notification to be published in his own Office, in the District Court, and at some conspicuous place on the estate which is to be divided, intimating his intention to proceed with the partition after thirty days from the date of the Notification.

Partition by whom to be carried out.

XIII. The partition shall be made by the Collector in whose District the estate is situate, or if the estate be situate in two or more Districts, then by the Collector of any one of such Districts, who may be specially ordered by the Commissioner of the Division to superintend the partition. If the estate be situated in two or more Divisions the partition shall be made by such Collector as the Board of Revenue shall order.

Assessment and levy of costs in partition.

XIV. The expense of making the partition, and the allowances of the establishment necessary for the measurement and survey of the lands, the preparation of papers, and any other charges, shall be fixed by the Collector. The amount shall be paid under such rules as may from time to time be laid down by the Board of Revenue with the sanction of the local Government, and, in default of payment, may be realized under the rules applicable to the recovery of arrears of rent or Revenue.

Partition may be stayed, and proceedings quashed, by Commissioner.

XV. At any stage of the proceedings after a partition shall have been ordered, if it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any reason not inconsistent with the provisions of this Act exists, why the partition should not be proceeded with, it shall be competent to the Commissioner, on the report of the Collector, and subject to any orders that the Board of Revenue may pass in the case, to stay the partition, and to order the proceedings to be quashed. The decision of the Revenue Authorities under this Section shall not be open to revision by the Civil Court.

Decision not open to revision by Civil Court.

Procedure after lapse of period mentioned in the Notification under Section 12.

XVI. After the expiration of the period mentioned in the Notification referred to in Section XII. of this Act, the Collector shall, if necessary, cause a measurement of all the lands comprised in the estate to be made, and a rent-roll of the same to be prepared. The village papers which are required to be prepared and periodically deposited in the Office of the Collector, under the provisions of Sections XI. and XII., Regulation IX. 1833 (*to modify certain portions of Regulation VII. 1822, and Regulation IV. 1828; to provide for the more speedy and satisfactory decision of Judic al Questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the production of the village accounts; for the more extensive employment of Native Agency in the Revenue Department; and to declare the intent of Section V. Regulation VII. 1822, touching claims to Malikana*), may be used for the purposes of this Act. Provided that any of the proprietors shall be permitted to file a rent-roll of the estate, which shall be accepted if acknowledged to be correct by all the proprietors.

Examination of the parties and their papers.

XVII. The Collector may examine the parties on solemn affirmation in regard to the papers produced before him, whether by the Officer appointed to make the partitions, the proprietors, or otherwise. He shall also allow any shareholder to examine the papers so produced, and to take copy of the same, and after such examination he shall hear any objections which any of the shareholders may make in respect to such papers. The Collector may direct any Deputy Collector or other Officer subordinate to him to examine the papers produced before him, and to make a report upon the same.

Option of settlement by private agreement. Procedure in case of refusal or default.

XVIII. The Collector, on the completion of the enquiry allowed by the last preceding Section, shall allow the parties the option of making a private partition of the estate and allotment of the public Revenue amongst themselves, within such time as he may fix, or, if the parties shall not consent to make a private partition of the estate, or shall fail to make such partition within the time fixed by the Collector, the Collector shall call upon them to state whether they are willing to refer the partition of the estate, and the apportionment of the public Revenue, to an arbitrator or arbitrators to be appointed by them. The Collector may also offer the parties the option of referring any point arising in the course of a partition to arbitration. The partition and allotment of the public Revenue made by the parties, or by arbitrators appointed by them, shall be subject to the confirmation of the Collector, and the orders of the superior Revenue Authorities.

XIX. If the parties consent to refer the partition of the estate, and the allotment of the public Revenue, or any point arising in the course of the partition, to arbitration, but they cannot agree amongst themselves as to the arbitrator or arbitrators to be appointed, the Collector may appoint two or more persons to be arbitrators in the case. If the arbitrators are equally divided in opinion, the Collector shall act as umpire, and the partition made by the arbitrator or arbitrators with whom the Collector shall concur, shall be the partition in the case. The same rule shall apply in respect of any point arising in the course of a partition, which shall be referred to arbitration.

If parties cannot agree as to arbitrators, they may be appointed by Collector.

If votes be equal, Collector to act as umpire.

XX. If any person, on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed arbitrator in his stead, in the same manner in which he first person was appointed.

Appointment in place of arbitrator refusing, or being unable, to act.

XXI. After the arbitrators shall have accepted the appointment, the Collector shall transmit the whole of the papers to them, and it shall be competent to the Collector to exercise towards the arbitrators the same powers and authority for securing their attendance, and the due completion of their award, which he is competent to exercise towards witnesses summoned before him when acting judicially, for the purpose of compelling them to attend and give evidence. The Collector shall also fix a time within which the arbitrators shall deliver the paper of partition. On sufficient cause shown, the Collector may extend such period.

Powers of Collector with regard to arbitrators.

XXII. The arbitrators shall deliver a full and complete paper of partition, specifying the separate estates into which they propose that the estate shall be divided, the names of the parties to whom the several estates are proposed to be allotted, and the amount of public Revenue to be assessed on each of such estates.

Particulars to be specified in partition paper.

XXIII. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount to be fixed by the Collector.

Remuneration of arbitrators.

XXIV. If the paper of partition be not delivered within the time fixed by the Collector, or within any further period to which the time may have been extended, the Collector may order that the partition shall be referred to another arbitrator or arbitrators, to be chosen in the same manner and subject to the same rules as the first.

In default of award by first arbitrators, partition may be referred to others.

XXV. If the partition of the estate cannot be made by the parties themselvs, or by arbitration, under the foregoing rules, the Collector shall appoint an Officer to make the partition, and shall forward the whole of the papers to such Officer, and shall direct him to proceed to the estate, and to make the partition within a time to be fixed by the Collector.

In default of private agreement, or settlement by arbitration, Officer may be appointed to make partition; who shall summon proprietors by proclamation to attend proceedings.

XXVI. The Officer appointed to make the partition shall issue a proclamation at the Maal-Cutcherry of the estate, or other conspicuous place thereon, or at the village Chourie, or Choupal, requiring the several proprietors of the estate to attend upon him in person, or by agent, during the time that the partition is being made.

XXVII. At the commencement of the Revenue year current in the District the Collector may direct the Officer appointed to make the partition, or some other person, to attach the estate, and to bring it under Khas management under the personal superintendence of such Officer. The collections of the estate, after defraying the expenses of management, and any other expenses with which the estate is chargeable, shall be applied to the payment of the Government Revenue, and the residue shall be divided amongst the proprietors in proportion to their respective shares, at such periods as the Collector may see fit.

Estate may be attached and brought under Khas management.

XXVIII. If an arrear of public Revenue shall accrue on an estate ordered to be divided, while the partition of the estate is being made, any one or more of the proprietors may tender to the Collector his or their quota of the balance, and the Collector shall receive the same, and credit the amount to the share or shares of such proprietor or proprietors. If a sale of any part of the estate shall ultimately become necessary for the liquidation of any part of such arrear which may remain due, only the share or shares of the proprietor or proprietors who shall not have contributed their quota of the balance shall be sold in the first instance, and the partition shall go on and be completed, in the same manner as if no arrear of public Revenue had accrued. The purchaser or purchasers of the share or shares sold shall be entitled to separate possession of the estate or estates which under the partition, would have been allotted to the defaulting proprietor or proprietors. Provided always that, in all cases of a partition, the entire estate shall be considered responsible for the public Revenue assessed upon it, until the partition shall have been completed, and the several proprietors shall have been put into possession of the separate estates into which the estate may be ordered to be divided, according as the same may be allotted to them.

Procedure in case of arrears of revenue accruing during course of partition.

Powers of Officer charged with partition, in respect of measurement, &c.

XXIX. If the Officer appointed to make the partition shall consider it necessary, to assist him in making the same, to cause a detailed measurement to be made of all the lands comprised in the estate, or a map of the estate to be prepared, he shall exercise the same powers for making such measurement and map as are vested in the Collector by any law for the time being in force.

Division of lands held in common.

XXX. When some of the lands forming the estate are held in common, the Collector shall declare, by a proceeding to be held under the provisions of this Act, the principle and rule under which, in accordance with the village custom, such lands shall be divided; and he shall cause the partition of such lands to be made in conformity to the provisions of this Act. The portion of the common land falling by such partition to the shares of the several co-shares shall be added to the lands held by them in severalty, and the several estates thus formed shall be assessed and declare separaté estates. Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to by the parties, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Proviso.

Collectors may refuse to separate hands in certain cases.

XXXI. The Collector may refuse to declare any lands held in severalty, and not to liable re-distribution according to special village custom, a separate mehal, if the lands be so intermixed with other properties as to render the formation of a compact estate impossible, and if the parties affected by the partition decline to permit of the transfers necessary for curing such defect.

Where no lands held in common, lands in severalty may be declared a separate estate.

Proviso as to transfers.

XXXII. Where there may be no lands held in common, the lands in severalty, held by the applicant for partition, or assigned to him by the Collector under the provisions of this Act, shall be assessed and declared a separate estate. Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to, or directed by his order, as provided in Section XXX., to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Sharer failing to attend after proclamation, liable to forefeit his right of objection.

XXXIII. If any sharer, after the issue of the proclamation mentioned in Section XXVI. of this Act, shall fail to attend the Officer appointed to make the partition buring the time the partition is being made, no objection taken by such sharer to the partition shall be heard, unless such sharer can show that his absence was not wilful, or unless for any good and sufficient reason it shall appear just and proper to allow him to be heard against the partition.

Partitions may be stayed if the parties so desire.

XXXIV. If, at any time after an order shall have been passed for making a partition, it shall appear, either from the report of the Officer appointed to make the partition, or from any other information, that the parties are not desirous that the partition should proceed, it shall be competent to the Collector, with the sanction of the Commissioner, to stop the partition, and to strike the case off the file, recovering from the sharers all costs and expenses incurred up to that time.

Recovery of costs.

Estates formed by partition to be as compact as possible.

XXXV. It shall be the duty of the Officer appointed to make the partition, so far as circumstances will admit, to take care that the estates into which the estate is divided shall consist of contiguous mehals or villages. Provided that, if the estate ordered to be divided shall not consist of a sufficient number of villages to admit of one or more entire village or villages being included in each estate, the partition of the village or villages of which the estate shall consist shall be made so as to render each estate as compact as possible.

Revenue to be assessed on each divided estate.

XXXVI. The public Revenue shall be assessed on each estate into which the property shall be ordered to be divided, in conformity to the rules contained in any law for the time being in force.

Circumstances to be considered in making partitions.

XXXVII. In selecting the villages or lands to be included in each separate estate, the advantages or disadvantages arising from situation; the vicinity of roads, railways, navigable rivers, or canals ; the nature and quality of the soil and produce; the quantity of culturable and unculturable waste land; the depth at which water may be procurable; the number of tanks and wells; the state of the embankments and watercourses; and any other local circumstances affecting the present, or likely to influence the future, value of the lands, shall be duly considered: and the villages or lands to be included in each estate shall be fairly and impartially selected. So far as may be practicable, and consistent with compactness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

Rules when dwelling-house belonging to one sharer, is situate on ground to be allotted to another sharer.

XVXIII. If a dwelling-house belonging to one sharer shall be situate on any land, or in any vilage,which it may be necessary to include in the share of another sharer the proporietor of such house shall be at liberty to retain it, with the offices buildings, and grounds, immediately attached thereto, upon agreeing to pay to the proprietor of the land or village in which the same is situate an equitable rent for the ground. The limits of the ground and the rent to be paid for it shall

be fixed by the Officer making the partition, and shall be stated in the paper of partition.

XXXIX. Tanks, wells, water-courses, and embankments, shall be considered as attached to the land for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of such works, it shall be found necessary to continue them the Joint property of the proprietors of two or more of the estates into which the estate may be divided, the paper of partition shall specify, as far as circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

Rule as to tanks, wells, water courses, and embankments.

XL. Places of worship, which shall have been held in common previous to the partition of an estate, shall continue to be so held, unless the parties shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered' and the Officer making the partition shall enter a note of the agreement in the paper of partition.

Rule as to places of worship.

XLI. When the Officer appointed to make the partition shall have completed the partition, and allotted the public Revenue on each of the estates into which it is proposed that the estate shall be divided, he shall prepare and submit to the Collector a paper of partition, showing how he proposes to divide the estate and to apportion the public Revenue. This paper shall specify the names of the Mehals or villages included in each separate estate; the gross produce of each Mehal and village for the three years immediately preceding the year in which the partition is ordered to be made; the names of the parties to whom the several estates are allotted, and the proportion of the public Revenue proposed to be assessed on each of such estates, with any remarks regarding the mode observed in selecting the lands included in each estate, and the accounts upon which the apportionment of the public Revenue assessed thereon shall have been based, as may be necessary for the information of the Collector. The paper shall further contain a detail of the adjustments, if any, which shall have been made in respect to any tanks, places of worship, or other matters, as specified in the preceding Sections. The Officer appointed to make the partition shall also submit a map, showing the several estates into which the estate is proposed to be divided.

Particulars to be contained in the paper of partition.

Map to be also submitted.

XLII. The Collector shall take into consideration the partition proposed by the Officer appointed to make the partition, and, after calling for any further information which he shall deem necessary, and disposing of any objections which shall be taken to the partition and allotment of public Revenue, as proposed by such Officer, he shall submit a report to the Commissioner, together with such of the papers of the case as shall appear to him essential. He shall also forward a list of the papers not sent. The Collector shall record his opinion whether the proposed partition should be confirmed or modified, and, in the latter case, he shall state the nature of the modification which, in his opinion, should be made.

Procedure of Collector thereon.

XLIII. The Commissioner shall either uphold the partition proposed by the Collector, or modify the same. The decision of the Commissioner shall not be open to revision by the Civil Court, but shall be subject to appeal to the Board of Revenue. The Commissioner, before coming to a decision, may call for any additional papers, or direct any further inquiry that he shall consider necessary. He may also, if he think proper, direct that, when two or more of the estates into which it is proposed to divide the estate shall consist of the same proportions of the entire estate, the parties entitled thereto shall draw lots for the same before the Collector.

Commissioner may confirm or modify partition, subject to appeal to the Board, And may direct division by lot in certain cases.

XLIV. On the receipt of the order of the Commissioner, or if an appeal be preferred to the Board of Revenue, then, of the order passed on the appeal, the Collector shall cause the same to be published in his Office, and in some conspicuous place in each of the estates separately constituted by such order. The Collector shall at the same time specify the date from which each of the estates shall be held to be a separate estate, and shall enter the several estates into which the estate has been divided in the Register of Estates paying Revenue to Government. The Collector shall give the several proprietors possession of the estates allotted to them, and, if necessary, may avail himself of the assistance of the Magistrate in giving possession.

Procedure by Collector on receipt of order of Commissioner or of Board of Revenue on appeal.

XLV. In order to prevent collussion or error in the distribution of the public Revenue assessed upon an estate which may be ordered to be divided into two or more distinct estates, if it shall be proved to the satisfaction of the Government within twelve years from and after the date of confirmation of the partition, that the public Revenue was fraudulently or erroneously apportioned at the time of the partition, the Government shall have power to order a new allotment of the public Revenue upon the several estates into which such estate may have been divided, conformably to the principles prescribed in this Act, on an estimate of the gross produce of each estate at the time of the partition, to be made agreeably to the best

Government may order new allotment of public Revenue in case of fraud or error in original allotment being proved.

evidence and information which may be procurable repecting the same. Such order shall not be liable to be contested in the Civil Court. The parties whose estates may be declared to have been under-assessed shall be required to pay the proprietors of the estates which shall have been over-assessed the sum in which they shall be found to have been over-assessed, and, in default of payment, the amount shall be leviable by the process prescribed for the recovery of arrears of rent or Revenue.

Consequence to party having interest any estate, if he neglect to affirm or establish such interest while the estate is under attachment with a view to partition.

XLVI. If, during the time an estate is under attachment with a view to the partition of the same, any party shall neglect or omit to claim, by a suit, any right or title he may then have to the ownership or occupancy, at a fixed rent, of any land situated in such estate, or any other interest therein, such neglect or omission shall be a valid plea in bar of any suit relating to such right, title or interest, unless the party can satisfy the Court that there was good and sufficient reason for his neglect or omission to institute the suit at or before such time. Provided that this Section shall not bar any action for arrears of rent, or the enhancement or alteration of rent.

Holder of decree of Civil Courts awarding right to portion of an estate, may apply for partition.

XLVII. Whenever any Court of Civil Judicature shall pass a decree, awarding to any person the proprietary right in a portion of an estate paying Revenue to Government, whether the portion so awarded shall consist of a fractional share in the whole, or part, of the estate, or of specific lands, the decree-holder may apply to the Collector for a partition of the estate; and on the receipt of such application, the Collector shall proceed thereupon under the provisions of this Act, which are hereby declared applicable to such applications.

Union in certain cases of severed portions of estates originally joint.

XLVIII. If two or more estates, which may have originally formed portions of the same estate, shall come into the possession of one person, such person shall be entitled to have such estates united, and to hold them as a single estate; or if two or more persons shall have separate possession of their respective shares of an estate which was originally held as a joint undivided estate, such persons may apply to have their shares united, and to hold them as one estate.

Application for such union how to be made and dealt with.

XLIX. The application for the union of the estates, or of the shares of the estate, as the case may be, shall be made in writing to the Collector of the District in which the estates, or shares of the estate, are situate, and the Collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his Office, reporting the case to the superior Revenue Authorities.

Certain parts of Act applicable to partition cases pending at the time of its passing.

L. The provisions of this Act, so far as they relate to the completion and confirmation, or to the staying or quashing, of the partition of an estate, may be applied, at the discretion of the Collector, in all cases of the partition of estates pending at the time of the passing of this Act.

Provisions of Act may be applied to partition of estates held Rent-free.

LI. The provisions of this Act, may in so far as the same are applicable, be applied by order of the local Government to the partition of any estate held free from the payment of Government Revenue.

Control of Collector's proceedings under Act.

LII. In the performance of his duties under this Act, the Collector shall be subject to the general direction and control of the Commissioner of the Division, and the Board of Revenue.

Orders of Collector, except in certain cases, open to revision by superior Revenue Authority.

LIII. All orders passed by a Collector under this Act, unless otherwise provided, not being orders or decisions within the meaning of Section IX., shall be open to revision by the superior Revenue Authorities.

What other Officers may exercise powers vested in collector by this Act.

LIV. The powers vested in a Collector by this Act may be exercised by a Deputy Collector or other Officer vested with the full powers of a Collector, subject the control of the Collector of the District.

Powers to be exercised by Collector, or Officer appointed to make partition.

LV. In carrying out the provisions of this Act, the Collector shall exercise the powers described in Regulation II. 1819, Regulation VII. 1822, and Regulations IX. and XIV. 1825. Any Officer appointed to make a partition under this Act may also exercise the powers described in the foregoing Regulations, so far as the same may be applicable.

Powers of Officers exercising jurisdiction under this Act with regard to false evidence.

LVI. If, in any case in which a Collector or other Officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other Officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a Civil Court, when any such offence is committed before or against such Court, or when a document charged to be a forgery is given in evidence in any proceedings in such Court.

Board of Revenue to be guided by instruc-

LVII. In the execution of the duties vested in the Board of Revenue by this Act, the Board shall be guided by such orders or instructions as they may from

time to time receive from the local Government, to whom they shall apply in all cases which shall appear to the Board not to have been provided for by the existing law. tions of local Government.

LVIII. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females. Interpretation.

LIX. This Act shall extend only to such parts of the North-Western Provinces of the Presidency of Fort William in Bengal as are subject to the general Regulation of that Presidency; but the Act may be extended, by order of the local Government, either wholly or in part, to any Non-Regulation Province under such Government. Territorial scope of Act.

ACT No. XX. OF 1863.

(Received the assent of the Governor-General on the 10th March.)

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1. Repeal of portions of Bengal Regulation XIX. of 1810 and of Madras Regulation VII. of 1817 relating to endowments for Mosques and Hindoo Temples.

2. Interpretation.

3. Local Government to make special provision respecting Mosques, &c., the nomination of the Trustee or Manager whereof is vested in or subject to the confirmation of Government.

4. If Mosque, &c., be under management of an independent Trustee or Manager, property in charge of Board of Revenue or local Agent to be transferred; and the powers and responsibilities of such Board and Agent to cease.

5. On appearance of person interested, Civil Court may appoint a Manager to a vacant Trusteeship, until some person shall establish his right to succeed to the office.

6. Powers and responsibilities of Trustee or Manager to whom property is transferred under Section 4, to continue as heretofore. Powers of the Board of Revenue or local Agent to be also exercised by such Trustee or Manager.

7. In cases under Section 3, Government to appoint in every Division or District one or more Committees, consisting of 3 or more persons, to perform the duties of the Board of Revenue and local Agents.

8. Committee to be appointed from amongst persons professing the religion of the Mosque, and in accordance with the wishes of those interested, to ascertain which an election may be held.

9. Members of Committee to be appointed for life, unless removed by the Civil Court for misconduct or unfitness.

10. Vacancies occurring to be filled up by election within 3 months. If not so filled up, Civil Court may appoint a person, or order remaining Members of Committee to do so.

11. Member of Committee not to act also as trustee or Manager.

12. On appointment of Committee, property in charge of Board of Revenue or local Agent to be transferred, and the powers and responsibilities of such Board or Agent to cease.

13. Trustee to keep regular accounts, the production of which once a year may be required by the Committee.

14. Any person interested may sue a Trustee or Member of a Committee for misfeasance or breach of trust, whereupon the Court may direct removal of the Trustee or Member.

15. Interest, entitling a person to sue under the preceding Section, need not be pecuniary or direct or immediate. Right of attendance at worship, or of partaking in the distribution of alms, to be deemed sufficient.

16. Court may refer matter in difference to arbitration.

17. Parties may apply, under Section 312 of the civil Procedure Code, for a reference to arbitration.

18. No suit to be instituted without leave, the application for which may be on unstamped paper. Court may order costs to be paid out of estate, in certain cases.

19. Court may order accounts of Trust to be filed, before or after institution of suit.

20. No Civil suit to affect any proceeding for Criminal Breach of Trust.

21. Portion of property may be retained under superintendence of Board of Revenue, if endowment be partly for religious and partly for secular purposes.

22. Except as provided, Government not to hold charge henceforth of property for support of any Mosque, &c., nor to appoint any Trustee or Manager.

23. Act not to prevent Government from taking steps to preserve buildings of antiquity or required for public convenience.

24. Interpretation of the word "India."

An Act to enable the Government to divest itself of the management of Religious Endowments.

Preamble.

Whereas it is expedient to relieve the Boards of Revenue, and the local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX. 1810 of the Bengal Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes; for the maintenance and repair of Bridges, Serays, Kuttras, and other public buildings; and for the custody and disposal of Nuzzool Property or Escheats*), and Regulation VII. 1817 of the Madras Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chuttrums and other public buildings; and for the custody and disposal of Escheats*), so far as those duties embrace the superintendence of lands granted for the support of Mosques or Hindoo Temples, and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of Trustees or Managers thereof; or involve any connexion with the management of such religious establishments: and whereas it is expedient for that purpose to repeal so much of Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes; It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

Number.

II. In this Act words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

"Civil Court," and "Court."

The words "Civil Court" and "Court" shall mean the Principal Court of Original Civil Jurisdiction in the District in which the Mosque, Temple, or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.

Local Government to make special provision respecting Mosques, &c., in certain cases.

III. In the case of every Mosque, Temple, or other religious establishment to which the provisions of either of the Regulations specified in Section I. are applicable, and the nomination of the Trustee, Manager, or Superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government, or any public Officer; or in which the nomination of such Trustee, Manager, or Superintendent shall be subject to the confirmation of the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Transfer to independent Trustees, &c., of all property belonging to their Trusts, &c., remaining in charge of Revenue Board or others.

IV. In the case of every such Mosque, Temple, or other religious establishment which, at the time of the passing of this Act, shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee, Manager, or Superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue, or any local Agent, and belonging to such Mosque, Temple, or other religious establishment, except such property as is hereinafter provided; and the powers and responsibilities of the Board of Revenue, and the local Agents, in respect to such Mosque, Temple, or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue, or any local Agent, previous to such transfer, shall cease and determine.

Procedure in case of dispute, as to right of succession to vacated Trusteeship, &c.

V. Whenever from any cause a vacancy shall occur in the office of any Trustee, Manager, or Superintendent, to whom any property shall have been transferred under the last preceding Section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the Mosque, Temple, or religious establishment, to which such property shall belong, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, to apply to the Civil Court to appoint a Manager of such Mosque, Temple, or other religious establishment, and thereupon such Court may

appoint such Manager, to act until some other person shall by suit have established his right of succession to such office. The Manager so appointed by the Civil Court shall have, and shall exercise, all the powers which, under this or any other Act, the former Trustee, Manager, or Superintendent, in whose place such Manager is appointed by the Court, had or could exercise, in relation to such Mosque, Temple, or religious establishment, or the property belonging thereto.

Rights, powers, and responsibilities of Trustees, &c., to whom any charge shall be transferred.

VI. The rights, powers, and responsibilities of every Trustee, Manager, or Superintendent, to whom the land and other property of any Mosque, Temple, or other religious establishment is transferred in the manner prescribed in Section IV. of this Act, as well as the condition of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue, and local Agents, given by the Regulations hereby repealed, over such Mosque, Temple, or religious establishment, and over such Trustee, Manager or Superintendent, which authority is hereby determined and repealed. All the powers which might be exercised by any Board, or local Agent, for the recovery of the rent of land or other property transferred under the said Section IV. of this Act may, from the date of such transfer, be exercised by any Trustee, Manager or Superintendent to whom such transfer is made.

Appointment of Committees.

VII. In all cases described in Section III. of this Act, the local Government shall once for all appoint one or more Committees in every Division, or District, to take the place, and to exercise the powers, of the Board of Revenue and the local Agents under the Regulations hereby repealed. Such Committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and local Agents, except in respect of any property which is specially provided for under Section XXI. of this Act.

Provision as to qualifications for Member of such Committee.

VIII. The Members of the said Committee shall be appointed from among persons professing the religion for the purposes of which the Mosque, Temple, or other religious establishment, was founded, or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such Mosque, Temple, or other religious establishment. The appointment of the Committee shall be notified in the Official Gazette. In order to ascertain the general wishes of such persons, in respect of such appointment, the local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such local Government.

Every Member to be appointed for life, unless removed for misconduct, &c.

IX. Every Member of a Committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness, and no such Member shall be removed except by an order of the Civil Court as hereinafter provided.

Provision for filling up vacancies.

X. Whenever any vacancy shall occur among the Members of a Committee appointed as above, a new Member shall be elected to fill the vacancy, by the persons interested as above provided. The remaining Members of the Committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new Member by the persons interested as above provided, under rules for elections which shall be framed by the local Government, and whoever shall be then elected, under the said rules, shall be a Member of the Committee to fill such vacancy. If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the remaining Members of the Committee, with which order it shall then be the duty of such remaining Members to comply, and if this order be not complied with, the Civil Court may appoint a Member to fill the said vacancy.

No Member of a Committee to be Trustee, &c., of the Mosque, &c., under charge of such Committee.

XI. No Member of a Committee appointed under this Act shall be capable of being, or shall act, also as a Trustee, Manager, or Superintendent, of the Mosque, Temple, or other religious establishment, for the management of which such Committee shall have been appointed.

On appointment of Committee, Board and Local Agents to transfer property.

XII. Immediately on the appointment of a Committe as above provided, for the superintendence of any such Mosque, Temple, or religious establishment, and for the management of its affairs, the Board of Revenue, or the local Agents acting under the authority of the said Board, shall transfer to such Committee all landed or other property which at time of appointment shall be under the superintendence, or in the possession, of the said Board or local Agents, and belonging to the said religious establishment, except as in hereinafter provided for, and thereupon the powers and responsibilities of the Board and the local Agents, in respect to such Mosque, Temple, or religious establishment, and to all land and other property

so transferred, except as above, and except as regards acts done and liabilities incurred by the said Board or Agents previous to such transfer, shall cease and determine. All the powers which might be exercised by any Board or local Agent, for the recovery of the rent of land or other property transferred under this Section, may from the date of such transfer be exercised by such Committee to whom such transfer is made.

Accounts of receipts and disbursements.

XIII. It shall be the duty of every Trustee, Manager, and Superintendent of a Mosque, Temple or religious establishment to which the provisions of this Act shall apply, to keep regular occounts of his receipts and disbursements, in respect of the endowments and expenses of such Mosque, Temple, or other religious establishment; and it shall be the duty of every Committee of Mannagement, appointed or acting under the authority of this Act, to require from every Trustee, Mannager, and Superintendent of such Mosque, Temple, or other religious establishment, the production of such regular accouts of such receipts and disbursements at least once in every year, and every such Committee of Management shall themselves keep such accounts thereof.

Any person interested may sue in case of Breach of Trust, &c.

XIV. Any person or persons interested in any Mosque, Temple, or religious establishment, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, Manager, or superintendent of such Mosque, Temple, or religious establishment, or the Member of any Committee appointed under this Act, for any misfeasance, Breach of Trust, or neglect of duty, committed by such Trustee, Manager, Superintendent, or Member of such Committee, in respect of the Trusts vested in, or confided to, them respectively, and the Civil Court may direct the specific performance of any act by such Trustee, Manager, Superintendent, or Member of a Committee, and may decree damages and costs against such Trustee, Manager, Superintendent or Member of a Committee, and may also direct the removal of such Trustee Manager, Superintendent, or Member of a Committee.

Nature of the interest entitling a person to sue.

XV. The interest required in order to entitle a person to sue under the last preceding Section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the Trust. Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any Mosque, Temple, or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding Section.

Reference to arbitrators.

XVI. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending, to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Whenever any such order shall be made, the provisions of Chapter VI. of the Code of Civil Procedure shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under Section 312 of the said Code.

Reference under Section 312 of Civil Procedure Code.

XVII. Nothing in the last preceding Section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said Section 312 of the said code of Civil Procedure.

Preliminary application for leave to institute suit.

XVIII. No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit. The application may be made upon unstamped paptr. The Court on the perusal of the application, shall determine whether there are sufficient *primâ facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution. In calculating the costs at the termination of the suit, the Stamp Duty on the preliminary application shall be estimated, and shall be added to the costs of the suit. If the Court shall be of opinion that the suit has been for the benefit of the Trust, and that no party to the suit is in fault, the Court may order the costs, or such portion as it may consider just, to be paid out of the state.

Costs.

The Court may require accounts to be filed.

XIX. Before giving leave for institution of a suit, or after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the Trustee, Manager, or Superintendent, or any Member of a Committee, as the case may be, to file in the Court the accounts of the Trust, or such part thereof as to the Court may seem necessary.

No Civil suit to bar proceedings for Criminal Breach of Trust.

XX. No suit or proceeding before any Civil Court under the preceding Sections, shall any way affect or interfere with any proceeding in a Criminal Court for Criminal Breach of Trust.

Provision for cases in which the endow-

XXI. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character,

or in which the endowment made for the support of an establishment is appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any Trustee, Manager, or Superintendent, or to any Committee of Management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the Trustee, Manager, or Superintendent, or of the Committee and also what annual amount, if any, shall be charged on the land or oher property which may be so transferred to the superintendence of the said Trustee, Manager, or Superintendent, or of the Committee, and made payable to the said Board or to the local Agents, for secular uses as aforesaid. In every such case the provisions of this Act shall taken effect only in respect to such land and other property as may be so transferred.

ments are partly for religious, partly for secular purposes.

XXII. Except as provided in this Act, it shall not be lawful, after the passing of this Act, for any Government in India, or for any Officer of any Government in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any Mosque, Temple, or other religious establishment, or to take any part in the management or apropriation or any endowment made for the maintenance of any such Mosque, Temple, or other establishment, or to nominate or appoint any Trustee, Manager, or Superintendent thereof, or to be in any way concerned therewith.

Government not to hold charge henceforth of property for support of any Mosque, Temple, &c.

XXXIII. Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to Mosques, Hindoo Temples, and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

Effect of Act in respect of certain Regulations and of buildings of antiquity, &c.

XXIV. The word "India" in this Act shall denote the territories which are or may become vested in Her Majesty by the Satatue 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

"India."

ACT No. XXI. OF 1863.*

(Received the assent of the Governor-General on the 10th March.)

1. *Governor-General in Council may establish Recorders' Courts in Akyab, Rangoon, and Moulmein: such Courts, to be Courts of Record.*

2. *Barristers of not less than five years' standing to be appointed "the Recorders" of such Courts.*

3. *Recorder to make a declaration of Office.*

4. *One Recorder may be appointed for the three Courts, or one for any two of such Courts.*

5. *If there be only one Recorder, he shall hold his Court at least once in three months in Moulmein, once in four months in Akyab, and as often as necessary in Rangoon.*

6. *Recorder to notify the days on which he intends to hold his Court at the said Towns, respectively, during each year.*

7. *If unable to hold Court at the time notified, Recorder to issue a fresh notification.*

8. *Recorder may also hold Court at other than notified times.*

9. *If there be one Recorder for any two Courts, provisions of Sections 6, 7, and 8 to be applied as far as applicable.*

10. *Chief Commissioner may from time to time fix the local limits of the Recorders' Civil Jurisdiction in each Town, and no other Court shall have jurisdiction within such limits.*

11. *Recorder to receive, try, and determine suits of every description, except such as Courts not established by Royal Charter are barred from trying.*

12. *Chief Commissioner may direct transfer to Recorder's Court of any case instituted in any other Court in Burmah.*

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* Act III. 1866 is to be read as part of this Act.

13. Except on application of parties, Recorder shall only try suits instituted in, or transferred to, the Court in which for the time being he is sitting.

14. A separate seal to be used for each Court, and to be kept in the Custody of the Recorder, or, in his absence, of the Registrar or Deputy Commissioner.

15. Subject to rules, Recorder to appoint and remove Ministerial Officers. Persons whose salary is Rs. 100 or upwards not to be removed without sanction of Chief Commissioner.

16. Recorder to license Advocates for the Courts, but an Advocate, &c. of the High Court may act without such license, and a suitor may appear and act for himself or for a co-suitor.

17. Recorder may, for sufficient reason, withdraw licenses granted by him.

18. Advocates' fees to be subject to the control and taxation of the Recorder.

19. Recorder may, under sanction, make rules for regulating the service and execution of process and the fees chargeable for such purpose.

20. Proceedings in Civil suits to be regulated by the Code of Civil Procedure.

21. Except in cases relating to marriage, inheritance or succession, where there is a native defendant, all questions to be determined according to the law administered in the High Court in Bengal in its ordinary original Civil jurisdiction.

22. Recorder to submit a statement of the case for the opinion of the High Court, if he entertain a doubt on any question of law, usage or the construction of a Document.

23. In such case Recorder may pass a decree, but execution not to issue until receipt of the order of the High Court.

24. Referred cases to be dealt with by two or more Judges of the High Court.

25. Parties may appear and be heard before the High Court, which shall transmit a copy of its judgment to the Recorder.

26. Costs of reference to High Court to be costs in the suit.

27. Appeal to lie to High Court in suits exceeding in value Rs. 3,000 but less than Rs. 10,000.

28. A New trial may be granted, if applied for in the case of immoveable property within 3 months, and in all other cases within 30 days, from date of decision; but such power not to interfere with the power to allow a review of judgment under the Civil Procedure Code. Recorder may in either case require security for compliance with the terms of the decree.

29. Recorder to have jurisdiction in cases arising under Acts XIX. of 1841, XXXV. of 1858, XI. of 1858, and XXVII. of 1860. Orders passed in such cases not open to appeal, but they may be contested in a regular suit.

30. Assessors may be appointed in Civil Suits, but decision to rest with the Recorder.

31. Governor-General in Council may appoint a Registrar to each or any of the Recorders' Courts.

32. Registrar to receive plaints and documents, issue notices and processes, and fix days of hearing.

33. If Registrar consider plaint defective, he may with consent amend it, or forward it for orders.

34. Registrar may on application execute decrees, No appeal from any order passed in such cases, but the Recorder may, of his own motion, reverse or modify such order.

35. Subject to general control, the Registrar to have the power of a Small Cause Court Judge in claims not exceeding Rs. 200. Governor-General in Council may invest any Registrar with power to hear claims not exceeding Rs. 500.

36. Such suits to be heard under Act XLII. of 1860. Recorder may transfer to his own file any suit on the file of the Registrar.

37. No appeal from decision of Registrar, but he may state a case for the opinion of the Recorder.

38. Recorder may refer for trial to the Registrar any case not exceeding in value Rs. 100. An appeal to lie in such suits to the Recorder, whose decision shall be final. But the Recorder may state a case for the opinion of the High Court.

39. In suits, of the value of Rs. 10,000 or upwards, an appeal to lie to Her Majesty in Council, subject to the ordinary Rules.

40. Except as to European British subjects charged with capital offences, Recorder to exercise all the powers of a Court of Session.

41 European British subjects charged with offences not punishable by a Justice of the Peace, to be committed for trial before the Recorder having jurisdiction.

42. Proceedings on trials held by the Recorder as a Court of Session to be regulated by the Code of Criminal Procedure.

43. Sentences of death passed by the Recorder not to be carried into execution until confirmed by the Chief Commissioner, who may commute a sentence of death to transportation for life, or for any period not less than 7 years.

44. No appeal in Criminal Cases, but Recorder may reserve points of law for opinion of High Court.

45. On such reservation, or on a Certificate that there has been error in the decision of a point of law, or that it should be further considered, High Court may review the case and alter the sentence.

46. Except as to plaints, Stamp Duty not to be chargeable on suits under Rs. 1,000: in all other cases the Duties under Schedule B of Act X. of 1862 to be chargeable.

47. Commissioner may sit with Recorder in any Civil or Criminal case, and record his opinion.

48. With the sanction of the Chief Commissioner, the Commissioner may, in the absence of the Recorder, exercise all the powers vested in the Recorder.

49. Recorder to keep such Registers, &c., and to submit such returns, &c., as the Chief Commissioner shall prescribe.

50. "Barrister" to include Barristers of England or Ireland, Members of the Faculty of Advocates in Scotland, and Advocates of any High Court or Colonial Supreme Court.

An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah; and to establish Courts of small Causes in the Towns.

Preamble.

Whereas the Resolution of the Governor-General in Council, dated the 31st January 1862, declares that, instead of a Judicial Commissioner for the whole Province of British Burmah, whose ordinary business can well be undertaken by the Chief Commissioner, and who, as Judge of a Special Court sitting at the Head Quarters of each Division, could not possibly dispose of the Causes arising at each place in a manner that would satisfy the suitors, or be consistent with the prompt and regular administration of Justice, there shall be established at Rangoon and Moulmein a Court to be presided over by a Barrister or Advocate of not less than five years' standing, with full powers of Civil and Criminal Jurisdiction, analogous to those now exercised by the Recorders of Prince of Wales' Island and Singapore, with the exception of the power to try cases in which European British Subjects are charged with capital offences: and whereas it is expedient to make provision for the establishment of such Court, and of a similar Court for the Town of Akyab; and also for the establishment of a Court of Small Causes in each of the said Towns of Akyab, Rangoon, and Moulmein, and to prescribe the Procedure for the said Courts, respectively; It is enacted as follows:—

Government may establish Courts for certain Towns in British Burmah.

I. It shall be lawful for the Governor-General in Council to establish Courts of Judicature for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah, or for any of the said Towns, which Courts, when so established, shall be called, respectively, the "Court of the Recorder of Akyab," the "Court of the Recorder of Rangoon," and the "Court of the recorder of Moulmein." Such Courts shall be Courts of Record.

The designation, appointment, &c., of the Judges of such Courts.

II. The said Courts, respectively, shall be held before a Judge who shall be called "The Recorder" thereof, and who shall be appointed by the Governor-General in Council, and shall be a Barrister of not less than five years' standing. Every Recorder appointed under this Act shall hold his Office during the pleasure of the Governor-General in Council.

Declaration to be made by Recorder.

III. Previously to entering upon the execution of the duties of his Office, every Recorder appointed under this Act shall make or subscribe the following declaration before such Authority or person as the Governor-General in Council may commission to receive the same:—

"I, A. B., appointed Recorder of [ ] do solemnly declare that I will faithfully perform the duties of my Office to the best of my ability, knowledge, and judgment."

Government may appoint one Recorder only, or more.

IV. The Governor-General in Council may appoint only one Recorder to be the Recorder of the said three Courts, or he may from time to time appoint a separate Recorder for any one, or for any two, of the said Courts.

If there be only one Recorder, how Court shall be held.

V. So long as there shall be only one Recorder of the said three Courts such Recorder shall hold his Court at each of the said three Towns of Akyab, Rangoon, and Moulmein, at stated periods. He shall hold his Court in Rangoon at such times as may be necessary; in Moulmein at least once in every three months; and in Akyab at least once in every four months.

Notification by Recorder, as to time and

VI. The Recorder shall, on or before the 1st day of January in each and every year, or at such other convenient times as the Chief Commissioner of British

place of holding Court.

Burmah shall direct, notify in the Official Gazettes of the Towns in which the Court is to be held, the days on which he intends to hold his Court at the said Towns, respectively, during the then next ensuing twelve months: and a copy of such Notification shall be stuck up in a conspicuous part of the Court Houses in the said Towns, Respectively.

Procedure in case of Recorder being unable to hold Court in way notified.

VII. If the Recorder shall be unable to hold his Court at the time and place fixed in any Notification issued under the last preceding Section, he shall fix another period for holding his Court at such place, and shall publish notice of the same in the same manner, so far as circumstances will permit, in which a Notification under the said Section is directed to be published.

Recorder may hold Court at other than notified times.

VIII. Notwithstanding anything in Sections VI. and VII. of this Act contained, it shall be lawful for the Recorder to hold his Court at times other than those notified as provided in the said Sections, when for any good and sufficient reason it shall appear to him necessary and proper to do so.

Sections VI. to VIII how to be applied, when there is one Recorder for two Courts.

IX. Whenever there shall be one Recorder for any two only of the said three Courts, the provisions contained in Sections VI., VII., and VIII. of this Act shall be applied, so far as the same may be applicable, in respect of the sittings to be held by such Recorder within the Towns of the Courts of which he is Recorder.

Civil Jurisdiction of Recorder.

X. The Recorders appointed under this Act shall have and exercise Civil Jurisdiction within such local limits, in the said Towns of which they are respectively the Recorders and in the neighbourhood thereof, as may from time to time be fixed by the Chief Commissioner of British Burmah, with the approval of the Governor-General in Council; and the limits so fixed shall be published in the Official Gazettes of the said Towns. Provided that it shall be lawful for the said Chief Commissioner, with such approval as aforesaid, as often as he shall think proper, to vary or alter the limits so fixed: and, save as in this Act provided, no Court other than the Recorder's Court shall have or exercise any Civil Jurisdiction whatever, within the limits for the time being fixed as aforesaid.

Proviso as to the alteration of local limits.

Suits cognizable by Recorders.

XI. The Recorders appointed under this Act shall receive, try, and determine suits of every description, if in the case of suits for land or other immoveable property such land or property shall be situate, or if in all other cases the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits of the ordinary Jurisdiction of their respective Courts. Provided that the Recorders shall not take cognizance of any suit, the cognizance of which, by the ordinary Civil Courts in British India not established by Royal Charter, is barred by any Act of Parliament, or by any Regulation or Act of the Governor-General of India in Council.

Proviso.

Transfer of cases from other Courts to Recorder's Court.

Such cases how to be dealt with.

XII. It shall be lawful for the Chief Commissioner to direct the transfer to any Recorder's Court, of any case which shall have been instituted in any Court in British Burmah other than a Recorder's Court. Every case so transferred shall be tried and determined by the Recorder to whose Court it is transferred, in the same manner, and under the same rules as to procedure, and in all other respects, as if the Recorder had originally had jurisdiction in the case, and the case had originally been instituted before him.

Rule as to the trial of suits by a Recorder having Jurisdiction in more than one Court.

XIII. A Recorder, who is the Recorder of more Courts than one, shall, while sitting in any one of the Courts of which he is Recorder, ordinarily try no suits except such as shall have been instituted in such Court, or shall have been transferred to it by the Chief Commissioner as hereinbefore provided: but such Recorder may, if he think proper, try any suit instituted in any other of the said Courts of which he is Recorder, if the parties thereto shall join in an application to him (which shall be in writing, signed by all the parties to the suit or their agents) so to try the same.

Seal of Courts. Custody of same.

XIV. A separate seal shall be made under the direction of the Governor-General in Council for each of the said Courts, and all summonses, orders, and other process issuing out of the said Courts, respectively, shall be sealed or stamped with the seal of the Court issuing the same. The said seal shall be delivered to and kept in the custody of the Recorder; but during any absence of the Recorder, or in case of the vacancy of the Office of Recorder, the same shall be delivered to and kept in the custody of the Registrar of the Court appointed as is hereinafter provided; and if there be no Registrar, then it shall be delivered to and kept in the custody of the Deputy Commissioner.

Appointment and removal of Ministerial Officers.

XV. It shall be lawful for the Recorder of any Court or Courts established under this Act, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General in Council, to appoint such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of Justice by the said Recorder, in such Court or Courts respectively,

and the due execution of the powers and authorities given to him by this Act; and every Clerk and Officer appointed as aforesaid shall be liable to dismissal by order of the Recorder of the Court to which he is appointed: provided that no person shall be removed from any Office, the salary of which is one hundred Rupees per mensem or upwards, without the sanction of the Chief Commissioner.

Licensing of Advocates, and rules as to qualification and admission.

XVI. No person shall be permitted to appear or act as the Advocate of any suitor in any Court held under this Act, in any action or suit, or touching any matter whatever, unless such person shall have been previously licensed by the Recorder of such Court, to act for the suitors of such Court generally, or specially for the particular occasion; and it shall be lawful for the Recorder of every Court held under this Act, to make rules for the qualification and admission of proper persons to act as Advocates in such Court. Provided that nothing in this Section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting, on his own behalf or an behalf of a co-suitor. Provided also that any person, who for the time being is an Advocate, Vakeel, or Attorney-at-Law of the High Courts of Judicature in India, shall be entitled without any license to act as an Advocate for any suitor in any of the said Courts; and that any person for the time being licensed to act generally in any one of the said Courts, shall without further license be also entitled to act generally in any other of the said Courts.

Saving of Agent for Secretary of State, &c.

And of Advocates, &c., of High Court.

License may be withdrawn.

XVII. The Recorder of any Court may, for any sufficient reason, withdraw or vacate any license which shall at any time be granted by such Recorder to any person, to act generally or specially as an Advocate under this Act.

Advocate's fees, &c., to be subject to taxation.

XVIII. The fees to be received by any Advocate, whether general or special, licensed under this Act, or entitled to act as an Advocate for another person in any of the said Courts without a license, under Section XVI. of this Act, shall at all times be subject to the control and taxation of the Recorder of the Court having Jurisdiction in the case in respect of which such fees are payable, and no fees shall be recoverable by any Advocates except such fees as shall have been allowed by the Recorder on taxation.

Rules for service and execution of process, and table of fees for same.

XIX. It shall be lawful for the Recorder of any Court or Courts established under this Act, to make and issue rules to regulate the service and execution of the processes of the Court or Courts within the territorial limits of his Jurisdiction, and also to settle a table of fees to be allowed to the persons employed in such service or execution, and from time to time to alter any such rule or table, and the rules so made and the tables so issued shall be used and observed in the said Court or Courts; provided that such rules and tables be not inconsistent with the provisions of any law in force, and shall, before they are issued, have received the sanction of the Chief Commissioner. All such rules and tables shall be published in the Official Gazettes of the said Towns, and shall thenceforth have the force of law until repealed or over-ruled by any Act of the Legislature, or by any rule or table subsequently issued and published with the sanction and in the manner aforesaid.

Publication of same.

Proceeding in Civil suits how to be regulated.

XX. Save as in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in any Court established under this Act, shall be regulated by Act VIII. of 1859 (*the Code of Civil Procedure*), as amended by Act XXIII. of 1861, and by any other Act or Acts that may hereafter be passed for that purpose.

Law as administered in Calcutta High Court, in its Ordinary Original Civil Jurisdiction, to obtain in all suits.

Saving of certain cases.

XXI. In all suits cognizable by any Court held under this Act, all questions, as well of fact as of law or equity, shall be dealt with and determined according to the law administered by the High Court of Judicature at Fort William in Bengal, in the exercise of its Ordinary Original Civil Jurisdiction. Provided that this Section shall not apply to any case heard and determined by any Court held under this Act, in which a native of British India is a defendant, and in which any question relating to marriage, inheritance, or succession shall be involved; but every such case, in so far as such question is concerned, shall be determined by the law or usage which would have been applied thereto, if such question had arisen in any other Court in British Burmah than a Court held under this Act.

In cases of doubt as to certain questions, a statement may be submitted for decision of the High Court.

XXII. If in any suit, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Recorder shall entertain any doubt, the Recorder may, either of his own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal.

And decree may pass contingent thereon; execution not to

XXIII. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in

issue till receipt of decision.

which a reference shall be made to the High Court, until the receipt of the order of that Court.

Full Bench of High Court to deal with referred cases.

XXIV. Cases referred for the opinion of the High Court shall be dealt with by a bench of two or more Judges of that Court.

Parties may appear in person, or by Advocate, &c. Transmission of Judgment of High Court, and the proceedings thereon.

XXV. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; and the High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper Officer of the Court, to the Recorder, who shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of the reference to the High Court.

XXVI. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Appeal to High Court in certain cases.

XXVII. In all suits heard and determined by a Recorder under this Act, in which the amount or value of the suit shall exceed three thousand Rupees, and be less than ten thousand Rupees, an appeal shall lie to the High Court of Judicature at Fort William in Bengal, subject to the rules contained in the said Code of Civil Procedure regarding regular appeals.

Grant of new trial on application within given time.

And review of judgment.

Security from applicant for either.

XXVIII. It shall be competent to the Recorder if he shall think fit, to grant a new trial in any suit tried by him, if applied for within three months from the date of the decision if the suit relate to any land or other immoveable property; and in all other cases if applied for within thirty days from the date of the decision. Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure if such review be applied for within the period allowed by the said Code for making such applications. Provided also that, in any case in which the Recorder may think it necessary to do so, he may, before granting a new trial, or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

Recorder may receive and dispose of all cases under certain Acts, subject to provisions as to Jurisdiction.

And his orders in such cases not open to appeal.

No other Court to deal therewith, within the jurisdiction of Recorder.

XXIX. All cases and proceedings arising under Act XIX. of 1841, (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), Act XXXV. of 1858 (*to make better provision for the care of the Estates of Lunatics not subject to the Jurisdiction of the Supreme Court of Judicature*), Act XL. of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) as amended by Act IX. of 1861 (*to amend the law relating to Minors*), or Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), may be received and disposed of by the Recorder of any Court established under this Act, subject always to all the rules and provisions as to Jurisdiction and otherwise in the said Acts contained respectively. Orders passed by the Recorder in cases arising under the said Acts shall not be open to appeal, but the parties shall be at liberty to contest such orders in a regular suit. No Court other than the Recorder's Court shall, within the local limits of the Jurisdiction of such Recorder's Court, receive or deal with any case or proceeding arising under any of the Acts mentioned in this Section.

Assessors to sit in Civil suits.

XXX. For the trial of Civil suits under this Act, the Recorder may constitute one or more persons Assessor or Assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No Officer of the Recorder's Court shall be appointed an Assessor under this Section but this prohibition shall not extend to any other public Officer.

Appointment of Registrar.

XXXI. It shall be lawful for the Governor-General in council to appoint to each or any of the Recorder's Courts established under this Act, an Officer who shall be called the Registrar of the Court to which he shall be appointed.

His duties.

XXXII. The Registrar of the Recorder's Court shall be the Chief Ministerial Officer of the Court, and shall, subject to the provisions in the next following Section contained, receive all plaints presented to the Court; and, in the absence of the Recorder, shall issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses: he shall also keep lists of all causes coming on for trial, and shall fixed such days for their being heard respectively, as may seem to him fit, having regard to the period appointed for the Recorder's sittings.

Procedure in case of plaint being defective in some particulars.

XXXIII. If the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Section 28, Section 29, Section 30, Section, 31, or Section 32, of the Code of Civil Procedure, he shall not

reject the plaint, but shall point out to the plaintiff wherein the plaint is defective, and shall with as little delay as possible forward the plaint to the Recorder of the Court for his orders, together with any statement which the plaintiff may think proper to make; and such plaint shall be dealt with as the Recorder shall order. Provided always that, if the defect in the plaint is capable of being cured under any of the said Sections, and the plaintiff shall be willing to amend it, it shall not be necessary for the Registrar to send the plaint to the Recorder, but such amendment may thereupon be made.

Proviso.

XXXIV. The Registrar shall also receive applications for the execution of decrees passed by the Recorder of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Recorder, shall execute such decrees in the same manner as the Recorder may execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Recorder may, of his own motion, reverse or modify any such order whenever he shall think it necessary to do so.

Execution of decrees by the Registrar.

XXXV. The Registrar shall have the powers of a Small Cause Court Judge in suits of the nature of those described in Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), arising within the limits of the Jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed two hundred Rupees; but he shall exercise such powers subject to the general control of the Recorder. The Governor-General in Council may invest any Registrar appointed under this Act, with Jurisdiction to hear and determine suits of the nature cognizable by him as a Small Cause Court Judge under this Section, in which the amount or value of the claim does not exceed Rupees five hundred.

Registrar to have powers of Small Cause Court Judge in certain cases.

Registrar may be invested by Governor-General with higher powers.

XXXVI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits, and execute the decrees made therein, in such manner as is prescribed in the said Act XLII. of 1860; and, subject to such rules as to procedure and otherwise, in all respects,, as are in the said Act contained. Provided that the Recorder, whenever he thinks proper, may transfer to his own file any suits on the file of the Registrar, and may hear and determine the same, subject to the rules as to procedure and otherwise hereinbefore mentioned.

Suits cognizable by Registrar how to be heard, &c.

Transfer from Registrar's file to that of Recorder.

XXXVII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him under the last preceding Section; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, he shall be at liberty to state a case for the opinion of the Recorder, in like manner as the Recorder may, under Section XXII. of this Act, state a case for the opinion of the High Court of Judicature at Fort William in Bengal; and all the rules and provisions hereinbefore contained relative to the stating of a case by the Recorder, shall apply *mutatis mutandis* to the stating of a case by the Registrar, so far as the same are applicable.

No appeal from decision of Registrar under last Section; but, in case of doubt, a statement may be submitted for opinion of the Recorder.

Rules applicable to such reference.

XXXVIII. It shall be lawful for the Recorder to refer to the Registrar of his Court any suit, not falling within the description of suits contained in Act XLII. of 1860, which shall be instituted in the Court of such Recorder, and the amount or value of the property in dispute in which shall not exceed one hundred Rupees. Every suit so referred to the Registrar shall be heard and determined, and the decree made shall be executed, by him, under the same rules as to procedure and otherwise as are applicable to suits tried by the Recorder. In such suits the Registrar shall have no power to state a case to the High Court, or to the Recorder; but an appeal shall lie on questions of law and of fact, from the Registrar's decision to the Recorder, under the rules for regular appeals contained in the Code of Civil Procedure. The decision on the appeal shall be final; but the Recorder shall be at liberty to state a question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, for the opinion of the High Court, in the same manner as in cases originally tried by himself.

Recorder may refer certain suits to Registrar. Rules respecting trial of same.

Reference to High Court.

XXXIX. In all suits heard and determined by a Recorder under this Act, in which the sum or matter at issue is ten thousand Rupees or upwards, or in which the judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question, to or respecting property of the value of ten thousand Rupees or upwards, an appeal shall lie to Her Majesty in Council, subject to the rules and orders for the time being in force regarding appeals to Her Majesty in Council from decisions of the High Court of Judicature at Fort William in Bengal in the exercise of its Ordinary Original Civil Jurisdiction.

Appeal to the Queen in Council in certain cases.

XL. The Recorder shall exercise all the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the territorial limits of the Civil Jurisdiction of the Court or Courts of which he is Recorder; and shall, at the place

Recorder to exercise power of Court of Session, and to hold Gaols

deliveries for trial of offenders.

or places where such Court or Courts are held, hold Gaol deliveries at convenient periods, of which due notice shall be given in the manner prescribed in Sections VI. and VII. of this Act, for the trial of all persons charged with offences punishable under the Indian Penal Code, who may be committed to take their trial before his Court as a Court of Session. Provided that the Recorder shall not have power to try any European British subject charged with an offence punishable with death under the said Court. The commitment of any European British subject charged with any such offence shall be made to the High Court of Fort William in Bengal. In all other cases, the commitments made within the limits of the Jurisdiction of any Recorders's Court, for offences punishable under the Indian Penal Code, shall be made to that Court.

Proviso as to European British subjects charged with offences punishable with death.

Commitment and trial of such subjects, when charged with offences not punishable with death.

XLI. If any European British subject shall be charged in British Burmah with any offence (other than an offence punishable with death under the Indian Penal Code), which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to take his trial before the Recorder, and shall be tried by the Recorder of the Court held within the Division of British Burmah in which either such European British subject shall have been arrested, or in which the offence with which he is charged shall have been committed; that is to say, before the Recorder at Rangoon if the arrest took place or the offence were committed in Pegu; before the Recorder at Akyab if the arrest took place or the offence were committed in Arracan; and before the Recorder at Moulmein if the arrest took place or the offence were committed in the Tenasserim Provinces.

Proceedings of Recorder as Court of Session how to be regulated.

XLII. The proceedings on trials held by the Recorder as a Court of Session under this Act shall be regulated by the Code of Criminal Procedure, and shall be subject to all the provisions of this Act, in so far as the same may be found applicable.

Execution or commutation of sentence of death.

XLIII. If on any trial sentence of death shall be passed by the Recorder, such sentence shall not be carried into execution until it shall have been confirmed by the Chief Commissioner. It shall be lawful for the Chief Commissioner, in any case in which it shall seem proper to him so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order &c., of Recorder in criminal case, but he may reserve points for opinion of High Court.

XLIV. No appeal shall lie from any order or sentence passed by the Recorder in any Criminal case. But it shall be at the discretion of the Recorder to reserve any point or points of law for the opinion of the said High Court.

Review of case and alteration of judgment by High Court.

XLV. On such point or points of law being so reserved, as in the last preceding Section mentioned, or on its being certified by the Advocate General at Fort William that, in this judgment, there is an error in the decision of a point or points of law decided by the Recorder, or that a point or points of law which has or have been decided by the said Recorder should be further considered, the said High Court shall have full power and authority to review the case, or such part of it as may be necessary, and finally determine such point or points of law; and thereupon to alter the sentence passed by the Recorder, and to pass such judgment and sentence as to the said High Court shall seem right.

Stamp Duties chargeable on instruments, &c., in Recorder's Court.

XLVI. The stamp Duties prescribed by Schedule B. annexed to Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*), for Instruments and Writings in the Sudder Court, shall be chargeable on instruments and Writings in the Courts of the Recorders established under this Act, if the amount or value of the claim exceed one thousand Rupees, or if the case be an appeal. The foregoing limitation as to amount shall not extend to petitions of plaint. For such petitions, whether the suit be tried by the Recorder or the Registrar of the Court, and for certificates granted under Act XXVII. of 1860, the Duty prescribed by the said Schedule B shall be chargeable. For copies of decrees in suits in which the amount or value of the claim does not exceed one thousand Rupees, as well as for copies of judgments and orders, the same Duty shall be chargeable as prescribed by the said Schedule B for copies of decrees, judgments, and orders passed or made by a Court below the Sudder Court. On Instruments and Writings in all other cases, as well in the Recorders' Courts, as in the Courts of the Registrars in cases cognizable by those Officers, on which a Duty of eight annas is prescribed by the said Schedule B, the Duty chargeable shall be eight annas.

Commissioner may sit with Recorder in any suit, and record opinion.

XLVII. The Commissioner of the Division within which the said Town of Akyab, Rangoon, or Moulmein, is situated, may sit with the Recorder in the trial and hearing of any Civil or Criminal case arising within the limits of his Division; and may record his opinion in any case in which he may so sit.

And may, in the absence of Recorder,

XLVIII. If there shall for the time being be no Recorder, or if the Recorder of any of the said Courts shall at any time, from sickness, or from being absent on

leave, or other cause, be unable to attend to the duties of his Office, it shall be lawful for the Commissioner of the Town wherein such Court is situate to sit in such Court, and to exercise all the powers vested by this Act in the Recorder, but subject to all the rules, provisions, and limitations, herein prescribed and declared. Provided that no Commissioner shall Act as Recorder, or exercise any authority under this Section, without the sanction of the Chief Commissioner first obtained.

sit in Court and exercise all powers.

XLIX. The Recorder shall keep such Registers, and Books and Accounts, and submit to the Chief Commissioner such statements and returns of the work done in his Court on the Civil and Criminal sides, as may be prescribed by the said Chief Commissioner, with the approval of the Governor-General in Council. The Recorder shall also comply with such requisitions as may be made by the Governor-General in Council, or by the Chief Commissioner, for records.

Recorder to keep such registers, &c., and to submit such returns, &c., as Chief Commissioner shall prescribe.

L. The word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland; or Members of the Faculty of Advocates in Scotland; or Advocates of any High Court, or Colonial Supreme Court, authorized by Royal Charter to admit Advocates.

Interpretation of "Barrister."

ACT No. XXIII. OF 1863.

(Received the assent of the Governor-General on the 10th March.)

1. Collector to make enquiry into claims to waste land and objections to the sale thereof, preferred within the period mentioned in the advertisement of sale.

2. Collector may admit or reject evidence produced in proof of claim or objection. If land be sold subject to any condition, notification thereof to be made at the time of sale.

3. Collector to postpone sale pending enquiry, and if claim or objection be rejected, further postponement to be made to allow such order to be contested.

4. Collector to stop the sale, if he consider claim or objection established. If, on order of Government to try the claim or objection under Section 6, it be not established, sale may afterwards be proceeded with.

5. Order of Collector rejecting claim or objection, to be final, if notice of intention to contest be not given within a week. Suit to be instituted within 3 months of receipt of notice of confirmation of order.

6. Local Government may within 12 months, direct a suit to be brought to try any claim admitted by the Collector.

7. Government to constitute Courts consisting of 3 or more persons, of whom Judge of principal Civil Court in each District to be one, unless such person be the Officer who held the original enquiry.

8. On the constitution of any such Court proclamation thereof to be made, and thereafter no other Court to entertain any such claim or objection.

9. Court to be held at most convenient places within the limits of jurisdiction.

10. In suits under Section 5 claimant or objector to appear as plaintiff, and the Collector or other Officer as defendant on the part of Government. In suits under Section 6, Government to appear as plaintiff, and claimant or objector as defendant.

11. Proceedings to be regulated by the Code of Civil Procedure.

12. Notice to be given of day of hearing, when parties to bring their witnesses and documents. Subpœnas may be issued, and personal attendance of claimants and objectors required.

13. On day of hearing, order to be passed after examination of the parties and their witnesses and inspection of documents.

14. Such order not open to appeal or revision.

15. Court may refer doubtful questions of law or usage or the construction of a document to the highest Court of appeal. Court bound to make such reference if the question involve a principle of general importance or the rights of a class.

16. Courts may proceed in the case notwithstanding such reference, but no final order to be passed until receipt of the order of the Court of Appeal.

17. Records of Courts under this Act to be deposited in the principal Civil Court of the District.

18. No claim to land or compensation for the sale thereof admissible after 3 years from date of sale. If sufficient reason be given why suit was not brought within the period fixed in Section 1, claim may be filed.

19. If claim be established and land shall have been sold, Court not to award possession, but may order compensation in a sum equal to the price of sale, with costs of suit.

20. If the land has not been absolutely sold, Court may award to the claimant such sum for his interest in the land as may be awarded under this Act VI. of 1857.

21. Award under two preceding Sections to be in full satisfaction of all claims on the same cause of action, or on any cause which existed prior to date of sale.

22. Government may award compensation within the limit prescribed in Section 19, for land absolutely sold, through claim be not preferred in time.

23. If land be sold subject to condition, Government may award to the claimant compensation for his interest in the land, though the claim be not preferred in time.

24. Interpretation.

An Act to provide for the adjudication of claims to waste lands.

Preamble.

Whereas it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands; It is enacted as follows:—

Provision for inquiry into claims to land, or into objections to sale of same.

I. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Collector of the District in which such land is situate, or other Officer performing the duties of a Collector of Land Revenue in such District by whatever name his Office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

Procedure in such cases.

II. The Collector or other Officer as aforesaid, shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same; subject to any condition or reservation which, to such Collector or other Officer as aforesaid, shall appear to be proper. If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

Pending the enquiry, sale, etc., to be postponed.

III. Pending an enquiry into any claim or objection under the last preceding Section, the Collector or other Officer as aforesaid shall postpone the sale or other disposition of the land; and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

Sale to be stopped if the claim appear good but may afterwards be proceeded with.

IV. If the Collector or other Officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land; but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued by the Local Government to try the claim or objection, as provided in Section VI. of this Act, the claimant or objector shall fail to establish the same.

Procedure after passing of order in the case.

V. If the Collector or other Officer aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector; and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other Officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other Officer as aforesaid, that he intends to contest such order, the order shall be final. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other Officer as aforesaid shall immediately make a report to the Board of Revenue, or other superior Revenue Authority; and shall forward with such Report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection; and such Board, or other Authority, on the receipt of such Report, and after calling for any further information

which it may consider necessary, may confirm, modify, or reverse, the order of the Collector or other Officer as aforesaid. If the Board or other Authority as aforesaid confirm the order of the Collector or other Officer as aforesaid, or modify such order in such manner as to leave any part of such order in force, adverse to the claimant or objector, the Collector or other Officer as aforesaid shall certify such order to the Court constituted as herein after provided; and such Court shall forthwith give notice to the claimant or objector; and if such claimant or objector shall not, within thirty days from the delivery of such notice from the Court, institute a suit in such Court to establish his claim or objection, the order of the Board or other Authority aforesaid shall be final.

Report to Revenue Board.

Decision of Board.

VI. The Local Government may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other Officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

Local Government may, within twelve months, order suit to be brought to try claim admitted by Collector.

VII. For the investigation and trial of claims under this Act, the Local Government shall constitute, in every District in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less than three; of whom the Judge of the District, or the Officer presiding in the principal Civil Court of original jurisdiction in the District by whatever name his office may be designated, shall be one. Any one or more of the Members of which such Court shall consist, shall have power to make all such orders in the case, as may be necessary prior to the hearing of the suit. Provided that whenever the Collector, or other Officer, by whom the original enquiry was held, is the Officer presiding in the principal Civil Court of original Jurisdiction in the District, such Officer shall not be a member of such Court.

Special Court for trying claims.

VIII. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates of the District: and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection, belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

Notice of constitution of Special Courts. Claims not cognizable in other Courts.

IX. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

Special Courts where to be held.

X. In every suit instituted under Section V. of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff; and the Collector or other Officer aforesaid shall appear as defendant on the part of Government. Either party may appear by pleader or by agent. Provided that, if such other Officer as aforesaid be the presiding Officer of the principal Civil Court of original jurisdiction in the District, the local Government shall appoint some other Officer to appear as defendant in the case on its behalf. In any suit ordered to be instituted by the local Government under Section VI. of this Act, the Government, by any Officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

Plaintiff and defendant in suits under Section V.

Proviso.

Plaintiff and defendant in suits under Section VI.

XI. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil procedure.

Proceedings to be regulated by the Civil Procedure Code.

XII. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit; and the Court shall issue a Subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

Procedure before hearing of suit.

XIII. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties; and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

Procedure on hearing.

No appeal or revision.

XIV. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

Reference of question of law, &c., to High Court, &c.

XV. If, on the trial of any suit under this Act, any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts; the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of appeal and revision in the territory in which the land is situate. Provided that it shall be the duty of every Court held under this Act, to make such reference to such High Court, or Court of appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

Such reference to be obligatory in certain cases.

Court may proceed notwithstanding reference.

XVI. The Court may proceed in the ase notwithstanding a reference to the High Court, or other highest Civil Court of appeal as aforesaid; and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred; but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of appeal.

Record where to be deposited.

XVII. The record of cases disposed of by Courts constituted under this Act, shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the District in which the property in dispute is situate.

Limitation as to claims to land sold or dealt with.

Provision for such claims if made within time.

XVIII. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with. If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the District in which the land is situated; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other Officer as aforesaid, within the period limited under Section I. of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the District or other Officer as aforesaid (within the like provision as aforesaid if such other Officer be the presiding Officer of the principal Civil Court of original jurisdiction in the District), the defendant in the suit; and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit. The report of the Officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

If claim held good, possession not to be given, but compensation.

XIX. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from the Government Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

When land has not been sold absolutely, but has been otherwise dealt with.

XX. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established; the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of Act VI. of 1857 *(for the acquisition of lands for public purposes)*; and thereupon the Local Government shall proceed under the said Act, to obtain an award of the value of such interest.

Award under the last Sections to be in full satisfaction.

XXI. An award under any of the provisions of the two last preceding Sections, shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

Government may compensate for land absolutely sold, though claim be not made in time.

XXII. Nothing in this Act shall be held to prevent the local Government from awarding, to any claimant of waste land sold on account of Government, on proof to the satisfaction of the local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other Officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount of compensation for the said land, within the limit as to amount mentioned in Section XIX. of this Act

if the land have been sold not subject to any condition or reservation, as to such local Government may seem proper.

XXIII. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the local Government, although not preferred to the Collector or other Officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the local Government may award to such claimant or object or such amount as to such local Government may appear to be the value of the interest of such claimant or objector in such land.

Compensation for land sold subject to condition, if claim proved.

XXIV. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Interpretation. Number. Gender.

ACT No. XXIV. OF 1863.

(Received the assent of the Governor-General on the 16th May.)

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1. *Governor-General in Council may invest Courts of 2nd, 3rd, and 4th grades, with power to receive and try suits cognizable by a Courts of a lower grade.*

2. *Appeals from such suits to lie to the Court to which appeals from decisions passed in the ordinary jurisdiction would lie.*

3. *Deputy Judicial Commissioner at Rangoon to receive and try suits cognizable by a Deputy Commissioner under Act I. of 1863.*

4. *The Pegu Civil Code, except Chapters III. and XXVII., repealed from 20th May 1862, and from that date to the 1st May 1863, Act VIII. of 1859 to be held to have been in force in Pegu.*

5. *Orders and decisions passed and proceedings held between those dates not to be invalid by reason only of having been passed or held under Act VIII. of 1859 instead of the Pegu Civil Code, or vice versâ.*

An Act to amend Act I. of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.)

Preamble.

Whereas it is expedient to amend Act I. of 1863 (*to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory*); It is enacted as follows :—

Government may invest certain Courts in British Burmah with power to try suits, etc., now cognizable by Courts of lower grade.

I. It shall be lawful for the Governor-General of India in Council to invest any Court in British Burmah of the second, third, and fourth grades of Courts mentioned in Section II. of the said Act I. of 1863, with power to receive suits, and to take cognizance of other matters, arising within the jurisdiction of the Court so invested, which from their amount as well as in other respects may be cognizable under the provisions of the said Act by a Court of a lower grade, and to try and determine the same subject to all the provisions of the said Act.

Provision for appeals from orders and decisions in suits, etc., dealt with under above Section.

II. Appeals from orders and decisions passed by any Court invested as aforesaid, in suits or other matters of the nature described in the last preceding Section, shall lie to the Court to which appeals from orders and decisions passed by the said Court in the exercise of its ordinary jurisdiction lie under the said Act I. of 1863, and shall be subject to all the rules contained in the said Act in relation to such appeals.

Jurisdiction of Deputy Judicial Commissioner at Rangoon, and his Court.

III. The Court of the Deputy Judicial Commissioner at Rangoon shall, for the purposes of Act I. of 1863, be a Court of a Deputy Commissioner as constituted by the said Act; and the said Deputy Judicial Commissioner shall exercise the same jurisdiction in respect to receiving, trying, and determining suits and other matters arising within his jurisdiction as Deputy Judicial Commissioner, as a Deputy Commissioner is competent to exercise under the said Act.

IV. Repealed by Act XIV. of 1870.

V. Repealed by Act XIV. of 1870.

ACT No. XXIX. OF 1863.

(Received the assent of the Governor-General on the 17th December.)

An Act to declare the receipts of the Banks of Bengal, Madras, and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George, and Bombay respectively.

Preamble.

Whereas, under the provisions of Act XXIV. of 1861 (*to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries*), the Bank of Bengal has, through the Governor-General of India in Council, entered into an agreement with the Secretary of State for India in Council that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William as consists of receiving and paying money on behalf of the Supreme Government and the Government of Bengal shall be carried on and transacted by the said Bank: and whereas the Bank of Madras and the Bank of Bombay have entered into similar agreements through the Governor in Council of Madras and the Governor in Council of Bombay with relation to the business hitherto generally transacted at the Treasuries at Madras and Bombay respectively: and whereas the office of Sub-Treasurer at Fort William and the office of Sub-Treasurer at Fort St. George and the office of Sub-Treasurer at Bombay have been abolished, and the business generally transacted at these offices has for some time past been and is now under the said agreements carried on and transacted by the said Bank of Bengal, Bank of Madras, and Bank of Bombay respectively: and whereas doubts have been entertained whether in certain cases, in which during the existence of the office of Sub-Treasurer the receipt of the Sub-Treasurer was required, the receipt of the Secretary of the Bank of Bengal or of the Secretary of the Bank of Madras or of the Secretary of the Bank of Bombay, as the case may be, is a good and sufficient receipt and discharge to the person to whom the same is given: and whereas it is desirable that these doubts should be removed; It is enacted as follows:—

Receipts of Secretaries of the Banks to be good in lieu of those of the Sub-Treasurers.

I. The receipt of the Secretary of the Bank of Bengal, of the Secretary of the Bank of Madras, and of the Secretary of the Bank of Bombay (as the case may be), granted under the circumstances aforesaid, shall be deemed to be, and always to have been, as good and sufficient a receipt and discharge to the person to whom the same is granted, as the receipt of the Sub-Treasurer of Fort William, or of the Sub-Treasurer of Fort St. George, or of the Sub-Treasurer of Bombay would have been if the office of the said Sub-Treasurer had not been abolished.

All Acts in which the Sub-Treasurers at the Presidencies are named, to be read as if the Bank's Secretaries were named instead.

II. In every Act and Regulation in which the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, or Sub-Treasurer of Bombay occur in connection with the payment of money required to be paid to, or of any act required to be performed by, any one of the said Sub-Treasurers, such Act or Regulation shall hereafter be read as if the words Secretary of the Bank of Bengal, Secretary of the Bank of Madras, and Secretary of the Bank of Bombay occurred therein, instead of the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, and Sub-Treasurer of Bombay respectively.

ACT No. XXXI. OF 1863.

(Received the assent of the Governor-General on the 16th December.)

An Act to give effect to the publication of certain orders and other matters in the Gazette of India.

Preamble.

Whereas the Governor-General of India in Council has resolved to publish an Official Gazette to be called the Gazette of India, containing such orders, notifications, and other matters as the Governor-General of India in Council shall direct to be inserted therein; It is enacted as follows:—

Publication in Gazette of India to have effect of publication in any other Gazette in which pub-

I. When in any Regulation or Act now in operation, or in any Rule having the force of law, it is directed that any order, notification, or other matter shall be published in the Official Gazette of any Presidency or place, such order, notification or other matter shall be deemed to be duly published in accordance with the

requirements of the law, if it be published either in the Gazette in which it would have appeared but for the passing of this Act, or in the Gazette of India under the directions of the Governor-General of India in Council.

lication is prescribed by law.

ACT No. XXXII. OF 1863.

(Received the assent of the Governor-General on the 16th December.)

An Act to continne in force Act XX. of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court.)

Preamble.

Whereas it is expedient that Act XX. of 1862 *(to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court)* should continue in force for a further period from the first day of January 1864 : It is enacted as follows :—

Act XX. of 1862 continued till such date as the Governor-General in Council shall appoint.

I. Act XX. of 1862 shall continue in force until such time as the Governor-General of India in Council shall by notification published in the Gazette of India appoint for its expiry.

ACT No. III. OF 1864.

(Received the assent of the Governor-General on the 12th February.)

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1. Interpretation.

2. Onus of proof that person is not a Foreigner to lie upon person alleged to be one.

3. Governor-General in Council may order any Foreigner to remove himself from India generally, or by a particular route; and any local Government may make a like order.

4. Foreigner refusing to remove, or returning to India without a license, may be apprehended and detained until discharged by order of Government.

5. Governor-General in Council may, be notification, put into force in any part of India, for any period, the provisions of this and the subsequent Sections of the Act respecting Foreigners residing or travelling in the country; Foreign Ministers, Consuls, persons in the service of Her Majesty, and persons under 14 years being exempted.

6. Foreigner arriving in a place where all the provisions of this Act are in force, to repoyt himself to the person appointed to receive such reports.

7. Report to be in writing, and to specify his name, nation, place of destination, and objects of pursuit.

8. Sections 6 and 7 not to extend to persons employed in a vessel, but such persons to report themselves on cessation of employment.

9. Persons neglecting to report themselves, to be dealt with as Foreigners travelling without a license.

10. No Foreigner to travel, without a licence, in any place where all the provisions of this Act are in force.

11. Licenses may be granted under the signature of a Secretary or other Officer specially appointed to grant licenses.

12. License to state the name of the licensee, his nation, his travelling limits, and the duration of the license.

13. License may be granted subject to conditions, and may be revoked at any time.

14. Foreigner travelling without a license, or beyond the prescribed limits, or violating any condition of such license, may he apprehended without a warrant.

15. Magistrate to report apprehension to the local Government.

16. Person apprehended to be admitted to bail and put to as littete inconvenience as possible.

17. Local Government may order such person to remove himself by a particular route, or may cause him to be so removed. Governor-General in Council may exercise similar powers.

18. Governor-General in Council may prohibit persons, not being natural-born subjects of Her Majesty, from passing through any part of Inaia without a license; persons disobeying such order may be apprehended and treated as Foreigners.

19. Local Governments to have the like powers.

20. Police Officers may search vessels for Foreigners bound to report themselves under Section 6. Master, if required, to deliver a list of the passengers with particulars. If any Foreigner do not give a satisfactory account of his objects of pursuit in India, he may be dealt with as if travelling without a license.

21. Master refusing to answer questions or making a false report, to be held to have committed an offence under Section 177 of the Penal Code.

22. Master neglecting or refusing to comply with requisitions of Act, liable to a fine of Rupees 1,000.

23. Person obstructing Officer under this Act to be held to have committed an offence under Section 186 of the Penal Code.

24. Fines imposed for offences committed within or beyond the Presidency Towns, to be equally recovered under Section 26 of Act XLVIII. of 1860.

25. Governor-General in Council or local Government may exempt any person or class of persons from all or any of the provisions subsequent to Section 5.

An Act to give the Government certain powers with respect to Foreigners.

Preamble, Whereas it is expedient to make provision to enable the Government to prevent the subjects of Foreign States from residing or sojourning in British India,

or from passing through or travelling therein, without the consent of Government; It is enacted as follows :-

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say :— Interpretation.

The words "British India," shall denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chap, 106, entitled "An Act for the better Government of India": "British India."

The words "Local Government" shall denote the persons authorized to administer the Executive Government in any part of British India, or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall, by an order of the Governor-General of India in Council published in the Gazette of India, be authorized to exercise the powers vested by this Act in a local Government : "Local Government."

The word "Foreigner" shall denote a person, not being either a natural-born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV., Chap. LXXXV., Section 81, or a Native of British India : "Foreigners."

The words "the Magistrate of the District," shall denote the Chief Officer charged with the Executive administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with the Executive administration is styled, or, in the absence of such Officer from the Station at which his Court is usually held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure : "Magistrate of the District."

The word "Vessel" shall include any thing made for the conveyance by water of human beings or property : "Vessel."

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number : Number.

Words importing the masculine gender shall include females. Gender.

II. If a question shall arise whether any person alleged to be a Foreigner and to be subject to the provisions of this Act, is a Foreigner or not, or is or not subject to the provisions of this Act, the onus of proving that such person is not a Foreigner; or is not subject to the provisions of this Act, shall lie upon such person. Proof of being a Foreigner.

III. The Governor-General of India in Council may, by writing, order any Foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order; and any local Government may, by writing, make the like order with reference to any Foreigner within the Jurisdiction of such Government. Government may order any Foreigner to remove himself.

IV. If any Foreigner ordered to remove himself from British India, or ordered to remove himself therefrom by a particular route, shall neglect or refuse so to do; or if any Foreigner, having removed himself from British India in consequence of an order issued under any of the provisions of this Act, or having been removed from British India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the Governor-General of India in Council or by the local Government under whose order he shall have removed himself or been removed,— such Foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the Governor-General of India in Council, or of the local Government within whose jurisdiction he shall be so apprehended or detained, upon such terms and conditions as the said Governor-General of India in Council or local Government shall deem sufficient for the peace and security of British India, and of the Allies of Her Majesty and of the neighbouring Princes and States. Foreigner refusing to remove, or returning after removal, may be apprehended and detained.

V. Whenever the Governor-General of India in Council shall consider it necessary to take further precautions in respect of Foreigners residing or traveling in British India or any part thereof, it shall be lawful for the Governor-General of India in Council, by a Notification published in the Gazette of India, to order that the provisions of this and the subsequent Sections of this Act shall be in force in British India, or in such part thereof as shall be specified in such Notification, for such period as shall be therein declared; and thereupon, and for such period, the whole of this Act, including this and the subsequent Sections, shall have full force and effect in British India or such part thereof as shall have been so specified. The Governor-General of India in Council may from time to time, by a Notification published as aforesaid, cancel or alter any former Notification which may still be in force, or may extend the period declared therein. Provided that none of the provisions of this or the subsequent Sections of this Act shall extend to any Foreign Minister duly accredited by his Government; to any Consul or Vice-Consul; to any person under the age of fourteen years; or to any person in the service of Her Majesty. Government may order all the provisions of this Act to be in force in British India, or in any part thereof. Proviso.

Every Foreigner to report arrival in India in certain cases.

VI. Every foreigner on arriving in any part of British India, in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding Section, from any port or place not within British India, or from any port or place within British India where all the provisions of this Act are not in force, shall, if he arrive at a Presidency Town, forthwith report himself to the Commissioner of Police of such Town, or, if he arrive at any other place, then he shall forthwith report himself to the Magistrate of the District, or to such other Officer as shall be appointed to receive such reports, by the Governor-General of India in Council or by the local Government of such place.

What must be stated in the report.

VII. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name or names, the Nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such Presidency Town or other place. The report shall be recorded by the Officer to whom it is made.

Foreigners, who are Masters of vessels or employed therein, to report themselves when they cease to be so employed.

VIII. The provisions of the last two preceding Sections shall not extend to any person being the Master or Commander of a vessel or employed therein, but if any such person shall be in any part of British India in which all the provisions of this Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

Foreigners, who do not report themselves, may be dealt with as Foreigners found travelling without a license.

IX. If any Foreigner shall neglect to report himself as required by this Act, he may be dealt with in the manner hereinafter provided in respect of Foreigners travelling without a license.

No Foreigner to travel in India without a license.

X. No Foreigner shall travel in or pass through any part of British India in which all the provisions of this Act are for the time being in force, without a license.

License by whom to be granted.

XI. Licenses under this Act may be granted by the Governor-General of India in Council or by any of the local Governments, under the signature of a Secretary to the Government of India or to such local Government as the case may be, or by such other Officers as shall be specially authorized to grant licenses by the Governor-General of India in Council, or by any of the local Governments.

What must be stated in the license.

XII. Every such license shall state the name of the person to whom the license is granted, the Nation to which he belongs, the District or Districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

License may be granted subject to conditions, and may be revoked.

XIII. The license may be granted subject to such conditions as the Governor-General of India in Council or the local Government may direct, or as the Officer granting the license may deem necessary. Any license may be revoked at any time by the Governor-General of India in Council, or by the local Government of any part of British India in which all the provisions of this Act are for the time being in force and in which the Foreigner holding the same may be, or by the Officer who granted the license.

Foreigner travelling without or contrary to the conditions of his license, may be apprehended.

XIV. If any Foreigner travel in or attempt to pass through any part of British India without such license as aforesaid, or beyond the Districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any Officer exercising any of the powers of a Magistrate, or by any European Commissioned Officer in the service of Her Majesty, or by any member of a Volunteer Corps enrolled by authority of Government whilst on duty, or by any Police Officer.

Procedure upon apprehension.

Magistrate to report to Government.

XV. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a Police Officer, he shall be delivered over as soon as possible to a Police Officer, and forthwith carried before the Magistrate of the District. Whenever any person shall be apprehended by or taken before the Magistrate of the District, such Magistrate shall immediately report the case to the local Government to which he is subordinate, and shall cause the person brought before him to be discharged, or to be conveyed to one of the Presidency Towns, or, pending the orders of such Government, to be detained.

Persons apprehended may be admitted to bail.

XVI. Any person apprehended or detained under the provisions of this Act, may be admitted to bail by the Magistrate of the District, or by any Officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Removal of persons apprehended.

XVII. The local Government of any part of British India in which all the provisions of this Act are for the time being in force, may order any person apprehended or detained under the provisions of this Act to remove himself from any such art of British India, by sea or by such other route as the said local Government

may direct; or the said local Government may cause him to be removed from such part of British India by such route and in such manner as to such local Government shall seem fit. The Governor-General of India in Council may exercise all the powers given by this Section to any local Government.

Government may prohibit any persons, not being natural-born subjects, from travelling or passing through any part of India without a license.

XVIII. The Governor-General of India in Council may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV., Chap. LXXXV., Section 81, from travelling in or passing through any part of British India in which all the provisions of this Act may for the time being be in force, and from passing from any part thereof to another, without a license to be granted by such Officer or Officers as shall be specified in the order: and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV. of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII. in the same manner as if he were a Foreigner: and the Governor-General of India in Council may order such person to be detained in safe custody or under the surveillance of the Police, so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Also the local Governments within their respective jurisdictions.

XIX. The local Government of any Presidency or place in which all the provisions of this Act may for the time being be in force, may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV., Chap. LXXXV., Section 81, from travelling in or passing through such Presidency or place or any part thereof, and from passing from any part thereof to another, without a license to be granted by such Officer or Officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV. of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII. in the same manner as if he were a Foreigner; and the local Government may order such person to be detained in safe custody or under the surveillance of the Police, so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Certain Officers may board vessels to see whether Foreigners are on board.

XX. It shall be lawful for the Commissioner of Police, or for the Magistrate of the District, or for any Officer appointed to receive reports as mentioned in the sixth Section of this Act, or for any Police Officer under the authority of such Commissioner or Magistrate, to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any Foreigner bound to report his arrival under the said Section VI. of this Act is on board of such vessel; and it shall be lawful for such Commissioner of Police, Magistrate, or other Officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose; and the Master or Commander of such vessel shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate, or other Officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation or intended disembarkation, and answer to the best of his knowledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate, or other Officer as aforesaid. If any Foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuits in India, or if his account thereof shall not be satisfactory, the Officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a Foreigner travelling in British India without a license.

Master of vessel to furnish list of passengers, and to give information respecting them.

Foreigner refusing to give account of himself, not to be allowed to disembark.

Penalty for false answer or report.

XXI. If the Master or Commander of a vessel shall wilfully give a false answer to any question which by Section XX. of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in Section 177 of the Indian Penal Code.

Penalty for the non-compliance of Master of vessel with requisitions of this Act.

XXII. If the Master or Commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the District or a Justice of the Peace, be liable to a fine not exceeding two thousand Rupees.

Penalty for obstructing Officers.

XXIII. Whoever intentionally obstructs any Officer in the exercise of any of the powers vested in him by this Act, shall be held to have committed the offence specified in Section 186 of the Indian Penal Code.

Fines imposed under this Act how to be recovered.

XXIV. All fines imposed under this Act may, according as they shall have been imposed for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras, and Bombay, be recovered by a

Magistrate of Police or by the Magistrate of the District, in the manner prescribed in Section XXVI. of Act XLVIII. of 1860 (*to amend Act XIII. of 1856, for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca.*)

Persons may be exempted from the operation of this Act.

XXV. The Governor-General of India in Council, or the local Government of any part of British India in which this Act may for the time being be in force, may exempt any person, or any class of persons, either wholly or partially, or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the Sections subsequent to Section V., and may at any time revoke any such exemption.

ACT No. VI. OF 1864.

(Received the assent of the Governor-General on the 18th February.)

1. Offenders liable to whipping in addition to the punishments described in Section 53 of the Penal Code.

2. Whipping may be substituted for other punishments under Sections 378, 380, 381, 382, 388, 389, 411, 412, 443, 444, 445, and 446 of the Penal Code.

2. On second and subsequent convictions of any such offence, the offender may be punished with whipping in lieu of or in addition to any other punishment.

4. Whipping may be inflicted in addition to any other punishment in the case of second and subsequent convictions under Sections 193, 194, 195, 211, 354, 375, 377, 390, 391, 393, 394, 413, 443, 445 445, 446, 463, 466, 467, 468, and 469, of the Penal Code.

5. Juvenile offenders may be punished with whipping in lieu of any other punishment for any offence not punishable with death.

6. Persons committing any of the offences specified in Section 4 in any Frontier District or wild tract of country in which this Section shall be declared by the local Government to be in force, may be punished with whipping in lieu of any other punishment.

7, Females, and persons sentenced to death, or transportation, or penal servitude, or imprisonment for more than 5 years, not to be punished with whipping.

8. No sentence of whipping to be passed by an Officer inferior to a Subordinate Magistrate of the first Class, unless such Officer is expressly empowered to do so.

9. A sentence of whipping, awarded in addition to imprisonment by a Court whose sentence is open to revision, not to be inflicted until 15 days from date of sentence, or, if an appeal be made, until confirmation of sentence.

10. Whipping to be inflicted on juveniles in the way of school discipline, and on adults as the local Government shall direct—the maximum not to exceed 150 lashes if a cat-of-nine tails be employed, and 30 lashes if the rattan be employed. The punishment to be inflicted in the presence of a Justice of the Peace or Magistrate, and, unless otherwise ordered by the Court passing sentence, in that of a Medical Officer.

11. Sentence not to be executed unless a Medical Officer certifies, or the Officer present thinks, the offender to be in a fit state of health; execution of remainder to be stayed if necessary. No sentence to be executed by instalments.

12. If sentence of whipping be not carried into execution, offender to be kept in custody until Court revise the sentence.

An Act to authorize the punishment of whipping in certain cases.

Preamble.

Whereas it is expedient that in certain cases offenders should be liable, under the provisions of the Indian Penal Code, to the punishment of whipping; It is enacted as follows:—

Whipping added to the punishments described in Section 53 of the Penal Code.

I. In addition to the punishments described in Section 53 of Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

II. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say:—

1. Theft, as defined in Section 378 of the said Code.

2. Theft in a building, tent, or vessel, as defined in Section 380 of the said Code.

3. Theft by a clerk or servant, as defined in Section 381 of the said Code.

4. Theft after preparation for causing death or hurt, as defined in Section 382 of the said Code.

5. Extortion by threat, as defined in Section 388 of the said Code.

6. Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of the said Code.

7. Dishonestly receiving stolen property, as defined in Section 411 of the said Code.

8. Dishonestly receiving property stolen in the commission of a Dacoity, as defined in Section 412 of the said Code.

9. Lurking house-trespass, or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

10. Lurking house-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

On second conviction of any offence mentioned in the last Section, whipping may be added to the other punishment.

III. Whoever, having been previously convicted of any one of the offences specified in the last preceding Section shall again be convicted of the same offence, may be punished with whipping in lieu of or in addition to any other punishment, to which he may for such offence be liable under the Indian Penal Code.

Offences punishable, in case of a second conviction, with whipping in addition to other punishment.

IV. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say :—

1. Giving or fabricating false evidence in such manner as to be punishable under Section 163 of the Indian Penal Code.

2. Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in Section 194 of the said Code.

3. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in Section 195 of the said Code.

4. Falsely charging any person with having committed an unnatural offence, as defined in Sections 211 and 377 of the said Code.

5. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of the said Code.

6. Rape, as defined in Section 375 of the said Code.

7. Unnatural offences, as defined in Section 377 of the said Code.

8. Robbery or Dacoity, as defined in Sections 390 and 391 of the said Code.

9. Attempting to commit Robbery, as defined in Section 393 of the said Code.

10. Voluntarily causing hurt in committing robbery, as defined in Section 394 of the said Code.

11. Habitually receiving or dealing in stolen property, as defined in Section 413 of the said Code.

12. Forgery, as defined in Section 463 of the said Code.

13, Forgery of a document, as defined in Section 466 of the said Code.

14. Forgery of a document, as defined in Section 467 of the said Code.

15. Forgery for the purpose of cheating, as defined in Section 468 of the said Code.

16. Forgery for the purpose of harming the reputation of any person, as defined in Section 469 of the said Code.

17. Lurking house-trespass or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

18. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

Juvenile Offenders punishable with whipping for offences not punishable with death.

V. Any juvenile offender who commits any offence which is not by the Indian Penal Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

When offences specified in Section IV. may be punished with whipping in frontier

VI. Whenever any local Government shall by notification in the Official Gazette have declared the provisions of this Section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such local Government, any person who shall in such district or tract of country, after such notifica-

Districts and wild tracts.

tion as aforesaid, commit any of the offences specified in Section IV. of this Act may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.

Exemption of females.

VII. No female shall be punished with whipping, nor shall any person who may be sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years, be punished with whipping.

Officer inferior to Subordinate Magistrate of the 1st Class not to pass sentence of whipping, unless expressly empowered by Government.

VIII. No sentence of whipping shall be passed by any Officer interior to a Subordinate Magistrate of the first class, unless he shall have been expressly empowered by the local Government to pass sentences of whipping.

Whipping if in addition to imprisonment, when to be inflicted.

IX. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court; but the whipping shall be inflicted immediately on the expiry of the fifteen days, or in case of an appeal immediately on the receipt of the order of the Court confirming the sentence, if such order shall not be received within the fifteen days.

Mode of inflicting the punishment.

X. In the case of an adult, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person as the local Government shall direct, and in the case of a juvenile offender, it shall be inflicted in the way of school discipline with a light rattan. In no case, if the cat-of nine tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or if the rattan be employed, shall be punishment exceed thirty stripes. The punishment shall be inflicted in the presence of a Justice of the Peace, or of an Officer authorized to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence shall otherwise order in the presence of a Medical Officer.

Punishment not to be inflicted if offender not in fit state of health.

XI. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or unless it appears to the Justice of the Peace or other Officer present, that the offender is in a fit state of health to undergo the punishment; and if, during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be stayed. No sentence of whipping shall be executed by instalments.

Not to be inflicted by instalments.

Procedure if punishment cannot be inflicted under the last Section.

XII. In any case in which, under the last preceding Section of this Act, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either order the discharge of the offender, or sentence him in lieu of whipping to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence; provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

ACT No. VII. OF 1864.

(Received the assent of the Governor-General on the 25th February.)

1. Repeal of part of Section 14 of Act XIV. of 1843 exempting the Saugor and Nerbudda Territories.

2. A Customs Duty not exceeding Rs. 3 per maund on Salt imported into the Central Provinces may be levied.

3. Certain provisions of Acts XIV. of 1843, XXXVI. of 1855, and XIX. of 1862 extended.

4. Collectors and other Officers indemnified for acts done prior to passing of this Act.

An Act for regulating the importation and manufacture of alimentary Salt, in the Territories administered by the Chief Commissioner of the Central Provinces.

Preamble.

Whereas it is expedient to provide for the levy of a Customs Duty upon Salt in the Territories administered by the Chief Commissioner of the Central Provinces

and to extend to the said Teristories certain provisions of Act XIV. of 1843 (*for regulating the levy of Customs Duties and the manufactures of Salt in the North-Western Provinces of the Presidency of Bengal*). and of Act XXXVI. of 1855 (*to empower Officers of Customs and land revenue, to search houses and other enclosed places for contraband Salt in the North-Western Provinces*), and of Act XIX. of 1862 (*to extend to the Province of Oude certain provisions of Acts XIV. of 1843 and XXXVI. of 1855 relating to the manufacture of contraband Salt, and to amend the last named Act*); It is enacted as follows :—

I. Repealed by XIV. of 1870.

II. It shall be lawful for the Governor-General in Council to order the levy of a Customs Duty not exceeding three Rupees per maund on Salt imported into the Territories administered by the Chief Commissioner of the Central Provinces.

Customs Duty on Salt imported into Central Provinces.

III. So much of Sections III., IV., V., VI., VII., VIII., IX., X., XI., XII., and XIII. of Act XIV. of 1843 as relates to the manufacture and importation of alimentary Salt, and to the prevention and punishment of the illicit manufacture and importation of such Salt, and Sections I., II., III.,V., VI., VII., VIII. and IX. of Act XXXVI. of 1855, and Section II. of Act XIX. of 1862 are hereby extended to the Territories administered by the Chief Commissioner of the Central Provinces.

Certain parts of Act XIV. of 1843, of Act XXXVI. of 1855. and of Act XIX. of 1862, extended to the Central Provinces.

IV. Every Collector of Customs and other Officer in the Territories administered by the Chief Commissioner of the Central Provinces, however such Officer is designated, is hereby indemnified for any thing done before the passing of this Act, which might lawfully have been done if this Act had been in force, and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

Indemnity to Collectors of Customs and others.

ACT No. VIII. OF 1864.*

(*Received the assent of the Governor-General on the 2nd March.*)

1. Interpretation.

2. All suits and proceedings by or against the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager for the time being of the Agencies in India, as the nominal plaintiff or defendant, and shall not abate on death or removal of such Manager.

3. In Criminal proceedings, property, whether vested in the Comptoir D'Escompte or in Trustees, may be described as the property of the Comptoir or of the Chief Manager.

4. A shareholder to have the same rights of action upon contract and for any debt, damage, or demand, as any stranger.

5. The Comptoir to have the same rights of action against a shareholder as against any stranger.

6. Chief Manager to enrol in the High Court of Judicature a memorial in Form A containing the particulars of the Establishment of the Bank, its capital, and rules of management.

7. No memorial to be enrolled unless the authority of the Manager be duly authenticated.

8. On appointment of a new Manager or any change in the facts stated in any memorial, a new memorial in Form B to be enrolled within 12 months.

9. Person making a false declaration in any memorial, to be deemed guilty of an offence under Section 199 of the Penal Code.

10. Comptoir not to sue under this Act till after enrolment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.

11. Copy of memorial certified by the Registrar of the High Court to be proof of the contents thereof.

12. Execution of decree may be on property in India, and if full amount be not recovered, proceedings therefor may be taken in France under the Convention of 30th April 1862.

Act IX of 1867 to be read as part of this Act.

13. No person to bring more than one suit in respect of the same demand, and proceedings in one suit may be pleaded in bar of any other suit for the same demand.

An Act to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company.

Preamble.

Whereas certain persons have formed themselves into a Company at Paris for the transaction of Banking business under the name of the "Comptoir D'Escompte of Paris:" and whereas the said Company is constituted and established under and by virtue of various Imperial decrees of the French Government, Notarial Acts, and Articles of Agreement, whereby it is provided (amongst other things) that the said Company may continue to exist and carry on business for a term of thirty years from the eighteenth day of March 1857, that the shareholders of the Company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the Company may establish, on its own responsibility, and with the authority of the Minister of Finance, Agencies in France and in French or Foreign Colonies, such Agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself: and whereas Agencies of the said Company have been recently established in Calcutta and in Bombay: and whereas on the thirtieth day of April 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say, "First—The High contracting parties declare that they mutually grant to all Companies and other Associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the Tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. Second—It is agreed that the stipulations of the preceding Article shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. Third—The present Convention is concluded without limit as to duration. Either of the High Powers shall however be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers moreover reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable:" and whereas it is desirable that effect should be given to the said Convention so far as the Comptoir D'Escompte and its Agencies now or hereafter established are concerned: It is enacted as follows:—

"British India."

I. Unless the contrary appears from the context, in construing this Act, the words "British India" denote the Territories which are or may become vested in Her Majesty the Queen by the Statute 21 and 22 Vic. Ch. 106, entitled "an Act for the better Government of India," except the settlement of Prince of Wales Island, Singapore, and Malacca:

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number:

Gender.

Words importing the masculine gender include females:

"Person."

The word "person" includes any Company or Association or body of persons, whether incorporated or not.

All suits and proceedings by or against the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager, as the nominal plaintiff or defendant; and shall not abate, &c., on death or removal of such Manager.

II. From and after the passing of this Act, all suits and other proceedings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, in whomsoever the same may for the time being be vested, whether in the said Company, or in some person or persons in trust for the said Company, or upon or in respect of any present liability to the said Comtoir D'Escompte, or upon any Bonds, Covenants, Contracts, or Agreements which already have been or hereafter shall be given to or entered into with the said Company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made Insolvent by the laws now or at any time hereafter in force relating to Insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be

commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir D'Escompte at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir D'Escompte, and all suits and proceedings, as well for subsisting as future accruing claims, debts, or demands to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said Chief Manager for the time being, as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte, and the death, removal, resignation, or any other act of such Chief Manager, or his bankruptcy or insolvency, shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted, and carried on or defended in the name of any other the Chief Manager for the time being of the said Agencies.

In criminal proceedings, property whether vested in the Comptoir D'Escompte or in Trustees, may be described as the property of the Comptoir or of its Chief Manager.

III. From and after the passing of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir D'Escompte, for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of the said Comptoir D'Escompte, or for any other offence against the said Comptoir D'Escompte, it shall be lawful to state such money, notes, bills, effects and securities, and other real and personal property, in whomsoever the same may be vested, whether in the said Comptoir D'Escompte, or in some person or persons in trust for the said Comptoir D'Escompte, to be the money, notes, bills, effects, and securities, or property of the said Comptoir D'Escompte, or of the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte; and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence; and in all other proceedings in which, before the passing of this Act, it would have been necessary to state the names of the persons composing the said Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in any wise affect or prejudice, such criminal proceedings.

Actions against the Comptoir on contracts with it not to be defeated because plaintiff is a partner.

IV. No suit which may be commenced in any Court in British India against the said Comptoir D'Escompte, or the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in any wise affected or defeated by reason of the plaintiff therein, or of any other person who may be in any wise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte; but any shareholder or partner of or in the said Comptoir D'Escompte, shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, upon any contract, and for any debt, damage, or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir D'Escompte.

Suits by Comptoir on contract not to be defeated because defendant is a partner.

V. No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the Chief Manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte, or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in any wise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in any wise interested in such suit, being a shareholder or partner of or in the said Comptoir D'Escompte, but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D'Escompte, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

Chief Manager to cause memorial to be enrolled containing certain particulars.

VI. The Chief Manager of the Agencies in British India of the said Comptoir D'Escompte shall have an Office for the transaction of the business of the Comptoir D'Escompte. He shall cause a memorial, in the form and to the effect set forth in the Schedule (A) to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him

before a Judge of the High Court of Judicature within the jurisdiction of which his Office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be signed by the said Chief Manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles, and other instruments under which the Company is established, and copies of the various rules under which the business of the Company is conducted. The memorial shall set forth the situation of the Office of the Chief Manager and of every other Office and place in British India in or at which the business of the Comptoir D'Escompte is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the Comptoir D'Escompte shall have set aside for their working capital in British India, and if the last mentioned capital be other than money, then a statement of how it stands invested, and in whose name.

Authority of Chief Manager to be authenticated.

VII. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the decrees, acts, deeds, and other documents accompanying the memorial, shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

Memorial of change in Chief Manager or in facts set forth in former memorial, to be enrolled.

VIII. Whenever any new Chief Manager of the Agencies in British India of the said Company shall be appointed, or any change in or addition to any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule (B) to this Act annexed, verified as aforesaid, shall, within twelve calendar months after such appointment, change or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

False declaration an offence under the Penal Code.

IX. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.

Comptoir not to sue under this Act till after enrolment of memorial, and person and person named in last memorial to remain liable till fresh memorial is enrolled.

X. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act: and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Examined copy to be a proof of contents of memorial.

XI. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Register for the time being of the High Court of Judicature in which the same shall pave been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was, at the time of such verification, Chief Manager as aforesaid of the said Agencies.

Judgment or order against Chief Manager how to be executed.

XII. Execution on every judgments, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager for the time being as aforesaid, shall and may be issued and enforced against any property in British India belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment, shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor any thing in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth of April 1862, for the recovery of the amount unrecovered.

No person to bring more than one suit for the same demand against any Chief Manager, nor the Comptoir against any other person.

XIII. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte under the authority of this Act, if so de-

termined, may be pleaded in bar of any suit in any Court in British India, for the same cause against any other such Chief Manager; and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the Chief Manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such Chief Manager as afore said.

SCHEDULE (A.)

Referred to in Section VI. of this Act.

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris pursuant to Act VIII. of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte of Paris, to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company," setting forth the particulars prescribed by Section VI of the said Act.

Situation of Office of Chief Manager ... .
Situation of other Offices and places in British India .. ..
Entire Nominal Capital of the Company .. ...
Paid-up Capital .. ..
Number of Shares ... .
Amount of each Share ... .
Amount of Capital set aside for operations in British India ... ..
Mode in which the same is invested ... ...
Name in which the same is invested .. ..

I, *A. B.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) A. B.

Declared &c., before me, a Judge of the High Court of Judicature at

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SCHEDULE (B).

Referred to in Section VIII. of this Act.

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII. of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte, &c.," *(as in foregoing)*, setting forth particulars of change or changes as prescribed by Section VIII. of the said Act.

Name and description of new Chief Manager ... .
or
New situation of Office of Chief Manager . ...
or
Other change ... ...

I, *C. D.* Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) C. D

Declared before me, &c, &c., *(as before)*.

ACT NO. X. OF 1864.

(Received the assent of the Governor-General on the 9th March.)

An Act to extend Act XXI. of 1856 (to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.)

Preamble.

Whereas it is expedient to give the Governor-General of India in Council power to extend the provisions of Act XXI. of 1856 *(to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal)* to any of the Provinces under the immediate administration of the Governor-General of India in Council in which the said Act is not now in force : It is enacted as follows :—

Governor-General of India in Council may extend Act XXI. of 1856 to certain Non-Regulation Provinces.

I. It shall be lawful for the Governor-General of India in Council, by order published in the Gazette of India, to extend the provisions of the said Act XXI. of 1856 to any province or place under the immediate administration of the Governor-General of India in Council.

Governor General in Council to declare the authorities by whom Act XXI. of 1856 is to be administered.

II. Whenever the Governor-General of India in Council shall extend the said Act XXI. of 1856 to any province or place under the powers hereinbefore in that behalf contained, the Governor-General in Council shall by notification in the Gazette of India declare the authorities by whom the said Act XXI. of 1856 shall be administered in such province or place.

ACT No. XII. OF 1864.

(Received the assent of the Governor-General on the 18th March.)

An Act to give further effect to the provisions of Act IV. of 1863 (to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.

Preamble.

Whereas it is necessary to provide for the more effectual carrying out of the provisions of Act IV. of 1863 (*to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah*); It is enacted as follows:—

Governor-General in Council may pass rules to give effect to Act IV. of 1863.

I. It shall be lawful for the Governor-General of India in Council to make and issue rules to give effect to the said Act IV. of 1863, and regulate all matters relating to the import and export of goods or otherwise arising under that Act : and from time to time to add to, alter, or revoke such rules or any of them. Provided that no rule so made shall be inconsistant with any provision of the said Act IV. of 1863, and that the penalties prescribed in such rules for their infringement shall not exceed, and shall so far as circumstances will admit be the same as, or similar to, the penalties prescribed in the like cases by Act VI, of 1863 (*to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.*) All rules made under this Section shall be published in the Gazette of India.

Proviso.

II. Repealed by Act XIV. of 1870.

ACT No. XIII. OF 1864.

(Received the assent of the Governor-General on the 18th March.)

1. Acts and parts of Acts set forth in the Schedule, repealed.

2. Interpretation.

3. Except under this Act, no contract to be made with any Native for labor to be performed out of India. Contracts for labor in any Foreign Settlement or Native State in India, or in Ceylon ; and contracts with native seamen and menial servants, excepted.

4. Contracts may be made with natives to emigrate to Mauritius, Jamaica, British Guiana Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles, and to the Danish Colony of St. Croix.

5 The Governor General in Council may declare emigration lawful to places other than the above.

6. Contracts may be made for emigration to places to which emigration is authorized by Governor-General.

7. From what ports emigration lawful.

8. Probable length of voyages.

9. Notification legalizing emigration to any new place shall give the probable length of the voyage.

10. Appointment of Emigration Agent.

11. The present Emigration Agents to be recognized as Emigration Agents under this Act.

12. Remuneration of Agents.

13. Appointment of Protector of Emigrants.

14. No Protector to hold other Office without permission.

15. Existing Protectors to be deemed Protectors under this Act.

16. General duties of the Protector of Emigrants. As to inspecting vessels with return Emigrants.

17. Appointment of Medical Officer.

18. Depôt to be established in Calcutta, Madras, and Bombay, for each Emigration Agency.

19. Licensing of depôts.

20. Inspection by Protector and by Medical Inspector.

21. Report to be made by Medical Inspector.

22. Protectors and Medical Inspectors to be held Public Servants.

23. And to have every facility for inspections, &c.

24. Repealed.

25. The Recruiter's License.

26. Duration of the license, and its cancelment in case of misconduct.

27. Form of license, and fee to be paid.

28. Recruiter to wear badge.

29. Recruiter to have his license countersigned by a Magistrate where he is recruiting.

30. Natives engaging to emigrate not to leave their district without appearing before a Magistrate. Examination and registration.

31. Repealed.

32. Copy of registration to be sent to Emigration Agent and Protector.

33. Registration of Emigrants recruited in Presidency Towns.

34. Protector's fee for registration.

35. Copy of registration by Protector, to be sent to Agent.

36. (1.) Conveyance of Emigrant to depôt.

(2). Emigrants shall be accompanied to depôt by Recruiter, or some person approved by the Magistrate.

(3.) Recruiter to provide suitable food and lodging.

37. Arrival at depôt to be reported to Emigration Agent, and to Protector.

38. Copy of registration to be shown to the Medical Inspector. And Emigrants to be inspected by him.

39. If unable to proceed from bad health, or if irregularly recruited, Emigrant to be sent back to place of registration.

40. Provision for case of Emigration Agent failing to pay sum required to enable Emigrant to return.

41. Duty of Emigration Agent. Provision for the case of Agent refusing without consent of Protector to be bound by contract made by Recruiter.

42. After examination and Medical Inspector's certificate, Emigration Agent to grant a Pass.

43. Protector of Emigrants to be present personally at examination and passing of Emigrants. And to countersign Pass.

44. Emigrants refusing to embark, not to be compelled to embark.

45. Time of sailing for places East of Cape of Good Hope. For other places.

46. (1.) Emigrant not to be received on board unlicensed ship.

(2.) Application for license

(3.) Contents of the license.

(4.) Survey of vessel.

(5.) Report after survey, and certificate to Master.

(6.) Bond to be executed by Master.

47. (1.) Accommodation and space required on board Emigrant ships.

48. (1.) Provisions, fuel, and water to be shipped and taken.
(2.) Surgeon, Medicines, and stores to be carried.
(3.) Supply of water for vessel destined to call at intermediate port.
(4.) Reduction of supply on vessel fitted with distilling apparatus
(5.) Protector and Inspector to ensure compliance with above provisions.

49. Protector of Emigrants to see that Emigrants are supplied with extra clothing at a certain season.

50. Master of vessel to obtain certificates from both Protector and Agent.

51. Emigrant unfit for voyage not to be allowed to embark.

52. Provisions of Act to be explained to all Emigrants.

53. 1. Procedure on embarkation of Emigrants.
(2.) Emigrant to give his Pass to Master.
(3.) Protector to be personally present.
(4.) One copy of list of Emigrants given to Protector, to be signed and returned to Master.
(5.) Emigrant not having Pass not to be allowed to remain on board.
(6.) Pass to be returned to Emigrant on arrival at place of destination.

54. Copy of list of Emigrants to be signed by Agent, and returned to Master. And by him to be delivered at place of destination.

55. *Repealed.*

56. *Repealed.*

57. *Repealed.*

58. Protector shall send to Government of place of destination list of Emigrants on board each vessel.

59. Vessels sailing from Calcutta to depart within 24 hours of embarking Emigrants.

60. Vessel sailing from Calcutta to be towed to Sea by Steamer.

61. Copies of Act and Rules to be kept on board every vessel.

62. In case of sickness, Emigrants for Seychelles may be taken to Quarantine Station of Mauritius.

63. Power of the Governor-General in Council to make Rules.

64. Government may prohibit the emigration of Native laborers to any place to which emigration is allowed.

65. Emigration to place mentioned to be suspended from day named in notification.

66. During such suspension, laws against emigration shall be in force as to the place specified in the notification.

67. Revocation of suspension.

68. Fees are to be accounted for Government.

69. Penalty for making an unlawful contract of labor.

70. Penalty for recruiting without license.

71. Penalty on Recruiter failing to take the laborers he has engaged before the Magistrate of the District, or the Protector of Emigrants. For inducing laborer to contract by fraud, &c. For not supplying proper food, &c. For not taking the laborer to the depot for the place at which he has contracted to labor.

72. Penalty for forwarding laborers, or allowing them to go, without being duly registered.

73. Penalty for false representation of authority from Government.

74. Penalty for receiving Emigrants in an unlicensed vessel.

75. Penalty for clearing ship without complying with rules.

76. Penalty for taking on board after clearance, Emigrants not entered in list.

77. Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

78. Penalty for proceeding to Sea without steam.

79. Customs Officers and Pilots may search and detain for purposes of this Act.

80. Repealed.

81. Prosecution how and where to be instituted. Levy of fines.

82. Any person specially authorized may exercise the powers of the Magistrate under this Act.

83. This Act, except certain Sections, not to apply to emigration to the French Colonies.

84. Repealed.

85. Act and Rules made under it not to apply to certain vessels.

An Act to consolidate and amend the laws relating to the Emigration of Native Laborers.

Whereas it is expedient to consolidate and amend the laws relating to the Emigration of Native Laborers : It is enacted as follows :— Preamble.

I. Repealed by Act XIV. of 1870.

II. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say :— Interpretation.

The word " Emigrate" shall denote the departure of any Native of India out of British India for the purpose of laboring for hire in some other place ; and the word " Emigrant" shall denote any Native of India under engagement to emigrate : "Emigrate." "Emigrant."

The words " the Magistrate of the District" shall denote the Chief Officer charged with the Executive Administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with such Executive Administration is styled, or, in the absence of such Officer from the Station at which his Court is ordinarily held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure : "The Magistrate of the District."

The words " British India" shall denote the Territories vested in Her Majesty by the Statute 21 and 22 Vic., Cap. 106, entitled " An Act for the better Government of India," except the settlement of Prince of Wales' Island, Singapore, and Malacca : "British India.

The words " Local Government " shall denote the person authorized by law to administer Executive Government in any part of British India : "Local Government."

The word " Section " shall denote a section of this Act : "Section."

The word " Vessel" shall include any thing made for the conveyance by water of human beings or property : "Vessel."

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular : Number.

Words importing the masculine gender shall include females. Gender.

III. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labor to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating : provided that nothing in this Act shall apply to any contract with any Native of India for labor to be performed in any Foreign Settlement on the main land of India or in any Native State in India, or to emigration to any such Settlement or State ; or shall apply to any contract for labor to be performed in, or to emigration to the Island of Ceylon; or shall apply to any contract with or the emigration of any Native Seaman or other person who of his own free will shall contract to navigate or serve on board of any vessel or who shall embark on board such vessel in pursuance of such contract, or any person who shall contract to serve as a menial servant only, and who shall embark as such menial servant. Contract for labor out of India unlawful, except under this Act.

IV. Contracts may be made with Natives of India to emigrate to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles, and to the Danish Colony of St. Croix : and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony. Places for emigration to which contracts may be made with Natives.

V. The Governor-General of India in Council may from time to time, by notification published in the Gazette of India, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in the last preceding Section : provided that every such notification shall contain also a declaration, that the Governor-General of India in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor-General of India in Council thinks sufficient for the protection of Natives of India emigrating to such place. Governor-General may declare emigration lawful to places other than those mentioned in the last Section. Proviso.

VI. From the date of any such notification by the Governor-General of India in Council, contracts may be made with any Native of India for labor to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place ; but all contracts and emigration under any such notification shall be made and conducted subject to the provisions of this Act. Contracts may be made for emigration to places to which emigration is authorized by Governor General.

VII. Emigration shall not be lawful except from the port of Calcutta, the port of Madras, or the port of Bombay. From what ports emigration lawful.

VIII. The probable length of the voyages to the places enumerated in Section IV., from Calcutta, Madras, or Bombay respectively, shall for the purposes of this Act be deemed to be as follows :— Probable length of voyage.

From Calcutta ...	To Mauritius and Seychelles...	Betwen the months of April and October inclusive, 10 weeks ; and between the months of November and March inclusive, 8 weeks.

From Calcutta	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, and St. Croix	20 weeks.
	To Natal	12 weeks.
From Madras	To Mauritius and Seychelles	Between the months of April and October inclusive, 7 weeks; and between the months of November and March inclusive, 5 weeks.
	To Jamaica British Guiana, Trinidad, St. Lucia, Guiana, St. Vincent, St. Kitts, and St. Croix	19 weeks.
	To Natal	10 weeks.
From Bombay	To Mauritius and Seychelles	Between the months of April and September inclusive, 5 weeks; and between the month 5 of October and March inclusive, 6 weeks.
	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, and St. Croix	19 weeks.
	To Natal	10 weeks.

Notification legalizing emigration to any new place shall give the probable length of the voyage

IX. In every notification issued under Section V., there shall be stated th probable length of the voyages from Calcutta, Madras, and Bombay respectively, to every place to which emigration is by such notification authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

Appointment of Emigration Agent.

X. The Government of every place to which emigration shall be lawful under this Act may, from time to time, nominate a person to act as Emigration Agent in Calcutta, Madras, and Bombay respectively, but such nomination shall be subject to the approval of the local Government. Every Emigration Agent shall be liable to removal by the Government which nominated him.

The present Emigration Agents to be recognized as Emigration Agents under this Act.

XI. Every Emigration Agent who at the time when this Act shall come into operation shall have been nominated by the Government of any of the Colonies enumerated in Section IV., shall be deemed to have been nominated under this Act.

Remuneration of Agents.

XII. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

Appointment of Protector of Emigrants.

XIII. It shall be lawful for the local Government to nominate a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and with the sanction of the Governor-General of India in Council to assign to such person such salary and establishment as shall be deemed proper. Every Protector of Emigrants shall be subject to removal by the local Government to which he is subordinate.

No Protector to hold other Office without permission.

XIV. No Protector of Emigrants nominated under this Act shall, except with the permission of the local Government, hold any other office under Government, or follow any other profession or occupation.

Existing Protectors to be deemed Protectors under this Act.

XV. Every Protector of Emigrants who at the time when this Act shall come into operation shall have been nominated by the local Government, shall be deemed to have been nominated under this Act.

General duties of the Protector of Emigrants.

As to inspecting vessels with return Emigrants.

XVI. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with: he shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated, and also during the voyage, and shall make a report thereon to the local Government, and he shall aid and advise such return Emigrnts so far as he reasonably can when called upon by them to do so.

Appointment of Medical Officer.

XVII. At each of the three ports aforesaid, it shall be lawful for the local Government to nominate a competent person to be Medical Inspector of Emigrants; and with the sanction of the Governor-General of India in Council to assign to the Medical Inspector so nominated such salary as shall be deemed proper.

Depots to be established in Calcutta, Madras, and Bombay,

XVIII. In each of the Towns of Calcutta, Madras, and Bombay, or in the Suburbs of those Towns, a suitable depôt shall be established by the Emigration Agent of every place to which emigration shall be lawful under this Act, for the persons who shall be engaged as laborers for such place; and by the Emigration

Agent nominated by the French Government under Act XLVI. of 1860, (*to authorize and regulate the emigration of Native Laborers to the French Colonies*), and Act VII. of 1862 (*to amend Act XLVI. of* 1860), for the persons who shall be engaged as laborers for the French Colonies.

for each Emigration Agency.

XIX. Every depôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants. No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he shall consider that the depôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for which the depôt was established. For every license granted under this Section there shall be paid to the Protector a fee of ten Rupees.

Licensing of depots.

XX. Every Protector of Emigrants and every Medical Inspector of Emigrants shall, from time to time, and at least once in every week, inspect the Emigrants in the various depôts for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the depots, and the manner in which the Emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

Inspection by Protector and by Medical Inspector.

XXI. It shall be the duty of the Medical Inspector to report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depot is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

Report to be made by Medical Inspector.

XXII. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be held to be a Public Servant within the meaning of the Indian Penal Code.

Protectors and Medical Inspectors to be held Public Servants.

XXIII. It shall be the duty of every Emigration Agent, and of all persons in charge of or employed in any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, to give the Protector and the Medical Inspector every facility for making such inspections, examinations, and surveys as may be necessary or proper under this Act, and to afford them all such information as may be reasonably required by them.

And to have every facility for inpections, &c.

XXIV. Superseded by Section 2 VI. 1869.

XXV. Every Recruiter shall be licensed to obtain laborers for some particular place to which emigration shall be lawful under this Act, and no license to obtain laborers for any place shall be granted except on the application of the Emigration Agent of such place.

The Recruitor's License.

XXVI. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Duration of the license, and its cancelment in case of misconduct.

XXVII. Every license shall be in the form set forth in the Schedule (B) to this Act annexed. For every license there shall be paid to the Protector a fee of ten Rupees.

Form of license, and fee to be paid.

XXVIII. Every person holding a license as a Recruiter of laborers shall wear a badge bearing the following inscription in English, and in the vernacular language of the Town, District, or Districts in which he is licensed to engage laborers—[*Recruiter of Emigrants for the Mauritius (or other place as the case may be)*].

Recruiter to wear badge.

XXIX. No Recruiter shall engage or attempt to engage laborers in any District or in the Towns of Calcutta, Madras, or Bombay, without having first exhibited his license to the Magistrate of such District, or a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon. Such countersignature shall be given, provided that the license is in force at the time.

Recruiter to have his license countersigned by a Magistrate where he is recruiting.

XXX. Every Native of India, who shall in any place other than the towns of Calcutta, Madras, or Bombay enter into any engagement with a Recruiter to emigrate, shall, prior to leaving the District within which the engagement was entered into, appear with the Recruiter before the Magistrate of such District, and no Recruiter shall remove such Emigrant from the said District until he shall have so appeared. Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the Magistrate shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial

Natives engaging to emigrate not to leave their district without appearing before a Magistrate.

Examination and registration.

paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

XXXI. Superseded by Section 3 VI. 869.

Copy of registration to be sent to Emigration Agents and Protector.

XXXII. Authentic copies of every registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein shall have been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

Registration of Emigrants recruited in Presidency Towns.

XXXIII. Every Native of India, who shall in the Towns of Calcutta, Madras, or Bombay enter into any engagement with a Recruiter to emigrate, shall within forty-eight hours of making such engagement appear with the Recruiter before the Protector of Emigrants in such Town, and no Recruiter shall remove such Emigrant from the said Town, or to any emigration depôt, until he shall have so appeared. Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, the name of the father, and the age of such Emigrant, and the name of the village or place of which such emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the Protector of Emigrants shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.
A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the protector to the Emigrant registered.

Protector's fee for registration.

XXXIV. For the registration of every Emigrant under the last preceding Section, the Recruiter shall pay to the Protector of Emigrants a fee of one Rupee. On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Protector to the Recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

Copy of registration by Protector, to be sent to Agent.

XXXV. An authentic copy of every registration by a Protector of Emigrants shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein shall have been engaged.

Conveyance of Emigrant to depot.

XXXVI. 1. Every Emigrant recruited under the provisions of this Act, shall be conveyed by land or river with all convenient despatch to the depôt at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

Emigrants shall be accompanied to depot by Recruiter, or some person approved by the Magistrate.

2. The registered Emigrant engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants may have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

Recruiter to provide suitable food and lodging.

3. Every Recruiter by or through whom Emigrants may be forwarded to a depôt, shall throughout their journey provide them with suitable lodging and food.

Arrival at depot to be reported to Emigration Agent, and to Protector.

XXXVII. The arrival of each Emigrant at a depôt shall immediately be reported, by the person in charge of the depôt, to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Copy of registration to be shown to the Medical Inspector.

And Emigrants to be inspected by him.

XXXVIII. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall, as soon as conveniently may be after the arrival of the Emigrant, be exhibited to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed. The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

If unable to proceed from bad health, or if irregularly recruited, Emigrant to be sent back to place of registration.

XXXIX. If the Medical Inspector shall certify that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed, or if any irregularity shall have occurred in the recruitment of any Emigrant, it shall be lawful for the Protector of Emigrants to order the Emigration Agent in whose depôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the laborer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the laborer to such place.

XL. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum of money as in the last preceding Section mentioned, it shall be lawful for the Protector to pay the same to or on behalf of the Emigrant, and every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it may be paid, as money paid to the use of such Emigration Agent. No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the same, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith. Provided that any Emigrant who from his state of health is in the opinion of the Medical Inspector unfit to undertake the journey back to the place where he was registered, shall, in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector shall otherwise order.

Provision for case of Emigration Agent failing to pay sum required to enable Emigrant to return.

XLI. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the depôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt. The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid, examine the copy of the registration furnished to the Emigrant under Section XXX. or Section XXXIII. If for any reason further enquiry be necessary, such enquiry shall be made forthwith. Unless the Emigration Agent shall with the consent of the Protector refuse to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy if it be a copy furnished under Section XXX. shall be countersigned by the both the Emigration Agent and the Protector, and if it be a copy furnished under Section XXXIII. shall be countersigned by the Emigration Agent alone; and the copy so countersigned, under whichever Section it may have been furnished, shall be delivered back to the Emigrant. If the Emigration Agent shall, without the consent of the Protector, refuse to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the Emigrant to return to the place where he was registered, and on failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant, and all the provisions of the last preceding Section as to sums paid by the Protector shall be applicable, so far as the circumstances of the case will permit, to sums paid by him under this Section. The Protector shall also, in every case in which it shall seem to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent. In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by, and to be binding on, the Emigration Agent.

Duty of Emigration Agent.

Provision for the case of Agent refusing without consent of Protector to be bound by contract made by Recruiter.

XLII. After the examination in the last preceding Section provided, and if the Medical Inspector shall have given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a Pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

After examination and Medical Inspector's certificate, Emigration Agent to grant a Pass.

XLIII. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under Sections XLI. and XLII., and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make; and if such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the Pass granted by the Emigration Agent.

Protector of Emigrants to be present personally at examination and passing of Emigrants.

And to countersign Pass.

XLIV. If any Emigrant shall without good and sufficient cause refuse or neglect to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board-ship against his will, or to detain him against his will at the depôt or elsewhere; but nothing in this Section shall be taken to diminish or affect in any way the legal liabilities, Civil or Criminal, of such Emigrant incurred by him by reason or in respect of his refusal or neglect aforesaid. Every case in which an Emigrant is charged before a Magistrate of a Presidency Town with refusing or neglecting to embark without good and sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such laborer shall, on conviction, be

Emigrants refusing to embark, not to be compelled to embark.

punished in the manner provided in Section CCCCXCII. of the Indian Penal Code for the punishment of offences under that Section.

Time of sailing for places East of Cape of Good Hope.
For other places.

XLV. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration may be lawful under this Act, at all times of the year. For any such place West of the Cape of Good Hope, Emigrants may leave only between the thirty-first of July and the sixteenth of March, unless they embark in vessels using steam power, in which case they may leave at any time of the year.

Emigrant not to be received on board unlicensed ship.

XLVI. 1. It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel shall have been obtained from the local Government, and the granting or withholding any such license shall be entirely discretionary with the local Government.

Application for license.

2. The Master or owner of any vessel who is desirous of obtaining a license to carry Emigrants in such vessel, shall apply in writing, through the protector of Emigrants, to the local Government for such license.

Contents of the license.

3. Every application for a license shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

Survey of vessel.

4. The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the requisite tackle for her voyage.

Report after survey, and certificate to Master.

5. The Protector of Emigrants shall make a full report on the survey to the local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

Bond to be executed by Master.

6. In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants and before any Emigrant shall embark on board of such vessel, execute in duplicate a bond, in such form as the local Government shall prescribe, binding himself and his owners in a penal sum of ten thousand Rupees to conform to the several conditions in this Act provided. It shall be the duty of the Protector of Emigrants to require the Master to execute such bond as aforesaid in duplicate, and to forward one copy of it to the Government of the place to which Emigrants are to be carried, and the other copy of it to the local Government.

Accommodation and space required on board Emigrant ships.

XLVII. 1. No certificate under the last preceding Section shall be granted, unless there shall be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

2. No compartment shall take more than one adult Emigrant for every ten superficial feet on deck, and for every cubic space of seventy-two feet.

3. A distinct and separate place shall be fitted up for a hospital in every Emigrant Ship.

4. Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

5. An Emigrant above the age of ten years shall for the purposes of this Act count as an adult, and two children from one to ten years of age shall count as one adult.

Provisons, fuel, and water to be shipped and taken.

XLVIII. 1. There shall be actually laden and on board of every vessel carrying Emigrants, at the time of the departure of such vessel from the port at which the Emigrants shall embark, in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor-General of India in Council under Section LXIII., good and wholesome provisions for the use and consumption of the said Emigrants, with fuel for cooking the same, over and above the victualling of the Captain, Officers, and crew, and of the Cabin and other passengers, if any, and a supply of water, which shall be carried in tanks or casks to be approved by the Protector of Emigrants, to the amount of seven gallons for every week of the computed voyage for every Emigrant on board such ship or vessel. When casks are used they shall be sweet and tight, of sufficient strength, and if of wood, properly charred inside, and shall not be capable severally of containing more than three hundred gallons each: the staves of the water casks shall not be made of fir, pine, or soft wood.

Surgeon, Medicines, and stores to be carried.

2. Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualined European or Native Surgeon, and such Medicines and other stores in such quantity and of such quality as may be prescribed by any Rules made under Section LXIII.

3. When any vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable voyage to such port or place of calling, shall be deemed to be a compliance with this Section. The probable length of the voyage to such port or place of calling shall be determined from time to time by the Protector of Emigrants, subject to the approval of he local Government.

Supply of water for vessel destined to call at intermediate port.

4. When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this Section.

Reduction of supply on vessel fitted with distilling apparatus.

5. It shall be the duty of the Protector of Emigrants and of the Medical Inspector of Emigrants to see personally that all the provisions of this Section are complied with.

Protector and Inspector to ensure compliance with above provisions.

XLIX. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage. Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the Tropics.

Protector of Emigrants to see that Emigrants are supplied with extra-clothing at a certain season.

L. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras, or Bombay, it shall be necessary for the Master of such vessel to obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say :—that such Protector and Emigration Agent have, in respect of the Emigrants proceeding in such vessel, done all which is hereinbefore by this Act required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions contained in this Act, for ensuring the health, comfort, and safety of the Emigrants, have been duly complied with, as well as all such rules as the Governor-General of India in Council shall from time to time frame under Section LXIII.

Master of vessel to obtain certificates from both Protector and Agent.

LI. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or disease. If the Protector of Emigrants shall be of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit the embarkation of such Emigrant. The Protector of Emigrants shall also, before the embarkation of any Emigrant, ascertain that such Emigrant has in his possession the copy of the registration provided under Section XXX. or Section XXXIII. If it shall appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost the copy of the registration aforesaid, the Protector may furnish such Emigrant with a copy of such registration, to be made from the copy received by the Protector from the Magistrate under Section XXXII., or from the Register kept by himself under Section XXXIII., and shall thereupon allow such Emigrant to embark.

Emigrant unfit for voyage not to be allowed to embark.

LII. The provisions of this Act, so far as they are likely more immediately to affect them, shall be explained in a general manner by the Protector of Emigrants to all Emigrants prior to their embarkation.

Provisions of Act to be explained to all Emigrants.

LIII. 1. When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages, and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

Procedure on embarkation of Emigrants.

2. On embarkation, every emigrant shall deliver to the Master of the vessel the Pass granted to him under Section XLII.; and it shall not be lawful for the Master to receive any Emigrant on board unless he delivers up such Pass. The Master shall compare the Emigrants who embark and the Passes delivered by them, with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the Passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

Emigrant to give his Pass to Master.

3. It shall be the duty of the Protector of Emigrants to be personally present at the embarkation of all Emigrants, and to see that the Master duly compares the list with the Passes and Emigrants, and he shall himself also compare the list with the Passes and Emigrants.

Protector to be personally present.

4. When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes them

One copy of list of Emigrants given to

Protector, to be signed and returned to Master.

to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the Office of the Protector of Emigrants.

Emigrant not having Pass not to be allowed to remain on board.

5. The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a Pass, or is not mentioned in the list aforesaid.

Pass to be returned to Emigrant on arrival at place of destination.

6. Every Pass delivered up to the Master of a vessel under this Section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

Copy of list of Emigrants to be signed by Agent, and returned to Master.

And by him to be delivered at place of destination

LIV. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out, two others of the five copies of the list of Emigrants mentioned in the last preceding Section, duly signed by the Master. The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination, and previous to the disemarkation of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper Officer, at such place.

LV. Repealed by Act VI. 1869.

LVI. Ditto ditto.

LVII. Ditto ditto.

Protector shall send to Government of place of destination list of Emigrants on board on vessel.

LVIII. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the Passes of the Emigrants, and from the list signed by the Master as aforesaid.

Vessels sailing from Calcutta to depart within 24 hours of embarking Emigrants.

LIX. The Master of every vessel carrying Emigrants from the Port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

Vessels sailing from Calcutta to be towed to Sea by Steamer.

LX. Every vessel sailing from the port of Calcutta with Emigrants shall proceed from Garden Reach to Sea under tow of a competent Steamer.

Copies of Act and Rules to be kept on board every vessel.

LXI. Two copies of this Act and of all Rules made by the Governor-General of India in Council under Section LXIII., and two copies of a translation of this Act and of Rules, in such languages as the local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage, and one of such copies or translation shall, upon request made at all reasonable times to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

In case of sickness, Emigrants for Seychelles may be taken to Guarantine Station of Mauritius.

LXII. In case of sickness breaking out on board of any vessel conveying Emigrants to the British Dependency of Seychelles, such Emigrants may be taken to the Quarantine Station of the Island of Mauritius, and in such case such Emigrants may, at their option, contract for service at the said Island of Mauritius, or may proceed to the said Dependency of Seychelles; and if they shall elect to contract for service in the Island of Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to the said Island under the provisions of this Act.

Power of the Governor General in Council to make Rules.

LXIII. It shall be lawful for the Governor-General of India in Council from time to time to make Rules, and to repeal, alter, and amend the same, not inconsistent with the provisions of this Act,—

1. To regulate the proportion of women to be taken with Emigrants, and the age below or above which children shall not be taken;

2. To prescribe the description, quantity, and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants;

3. To provide for the Medical care of Emigrants during their residence at the depôts and on their voyages;

4. To prescribe the nature, quality, and quantity of Medical drugs and other stores to be carried on board such vessels;

5. To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

6. To provide for a Journal being kept by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

7. And generally to provide for the security, well-being, and protection of Emigrants.

All such Rules shall be published in the Gazette of India and shall have the same force and effect as if they were contained in this Act.

Government may prohibit the emigration of Native laborers to any place to which emigration is allowed.

LXIV. Whenever the Governor-General of India in Council shall have reason to believe, that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage, it shall be lawful for the said Governor-General of India in Council, by notification published in the Gazette of India, to declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

Emigration to place mentioned to be suspended from day named in notification.

LXV. After any notification shall have been published under the last preceding Section, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification : but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

During such suspension, laws against emigration shall be in force as to the place specified in the notification.

LXVI. During the time of such suspension, any provisions of this or any other Act in force for the time being, prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labor to be performed by any Native of India out of the British Territories in India, shall take effect and be in force, so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

Revocation of suspension.

LXVII. Whenever the Governor-General of India in Council shall be satisfied that, in the place specified in any notification under Section LXIV., proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return passages to India for such Emigrants at or about the time at which they are entitled to such return passages, it shall be lawful for the said Governor-General of India in Council to notify in the Gazette of India that emigration to such place shall again be allowed from a day to be specified in such notification ; and thereupon all the provisions of this or any other Act in force for the time being authorizing emigration to such place shall, from the day so specified, be revived and have the same force and effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

Fees are to be accounted for to Government.

LXVIII. All fees received by any Magistrate, Protector of Emigrants or other Officer under this Act, shall be accounted for to Government in such manner as the Governor-General of India in Council may direct.

Penalty for making an unlawful contract of labor.

LXIX. Whoever shall, except under in conformity with the provisions of this Act, make any contract with any Native of India for labor to be performed in any place beyond British India to which emigration is not authorized under this Act, or under the said Acts LXVI. of 1860 and VII. of 1862, shall be deemed to have committed the offence specified in Section 363 of the Indian Penal Code : and whoever shall knowingly enable or assist any Native of India to emigrate to any such place, or aid in or abet the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

Penalty for recruiting without license.

LXX. Whoever, not being a Recruiter duly licensed under this Act, shall act or be employed as a Recruiter of laborers, or shall, contrary to the provisions of this Act, enter into any contract with a Native of India for labor to be performed by such Native of India in any place beyond British India (whether emigration to such place is or is not authorized under this Act, or under the said Acts XLVI. of 1860 and VII. of 1862,) shall be liable to a fine not exceeding five thousand Rupees.

Penalty on Recruiter failing to take the laborers he has engaged before the Magistrate of the District, or the Protector of Emigrants.

LXXI. Whoever, being a duly licensed Recruiter, shall remove any Emigrant whom he may engage in any District or place, other than the Towns of Calcutta, Madras, or Bombay, from such District or place, without such Emigrant having appeared along with the Recruiter before the Magistrate of the District in order that such person might be examined and registered ; and whoever shall remove any Emigrant whom he may engage in any one of the Towns of Calcutta, Madras, or Bombay from such Town, or to an Emigration depôt, without such Emigrant having appeared with the Recruiter before the Protector of Emigrants in order that such person might be examined and registered ; and whoever shall by means of intoxication, violence, fraud, or false pretences induce any Native of India to enter into a contract for labor to be performed by him in any place to which emigration, shall be lawful under this Act, or to proceed to any such place without having

For inducing laborer to contract by fraud &c

For not supplying proper food, &c.

For not taking the laborer to the depôt for the place at which he has contracted to labor.

entered into any contract; and whoever shall fail to supply any Emigrant whom he shall have engaged, and who shall be registered, with suitable food, or shall otherwise ill treat such Emigrant on his journey to the depôt; and whoever shall forward, send or convey any such Emigrant otherwise than is provided in Section XXXVI., or to any house or place in or near the Towns of Calcutta, Madras, or Bombay respectively, other than the depôt for the Emigrants for the place at which such Emigrant shall have contracted to labor—shall be liable to a fine not exceeding five hundred Rupees.

Penalty for forwarding laborers, or allowing them to go, without being duly registered.

LXXII. Whoever, being a duly licensed Recruiter, shall forward or send any Emigrant from the District or Town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of Sections XXX. and XXXIII.; and whoever, being a duly licensed Recruiter, shall induce or knowingly permit any such Emigrant to leave such District or Town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid—shall be liable to a fine not exceeding five hundred Rupees.

Penalty for false representation of authority from Government.

LXXIII. Whoever, without lawful authority, shall issue any written perwannah or order to the Police to assist himself or any other person to procure laborers to proceed to any place beyond British India, or shall falsely represent that such laborers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred Rupees.

Penalty for receiving Emigrants in an unlicensed vessel.

LXXIV. If the Master of any vessel which shall not have been licensed as provided in Section XLVI., shall knowingly receive any Emigrant on board in order to convey such Emigrant to any place contrary to the provisions of this Act, such Master of such vessel shall be liable to simple or rigorous imprisonment for a period not exceeding one year, and also to a fine not exceeding one hundred Rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.

Penalty for clearing ship without complying with rules.

LXXV. If the Master of any vessel shall, at the port of Calcutta, the port of Madras, or the port of Bombay, clear such vessel for any place to which emigration shall be lawful under this Act and take on board any Emigrant without having fully complied with every particular required in Sections XLVIII. and L., he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board.

Penalty for taking on board after clearance, Emigrants not entered in list.

LXXVI. If the Master of any vessel shall, after having cleared such vessel for any place to which emigration shall be lawful under this Act, take on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in Sections LIII. and LIV. and in the manner in those Sections prescribed, he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board his vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

LXXVII. If the Master of any vessel cleared for any place to which emigration shall be lawful under this Act, shall, after having obtained a certificate in accordance with the provisions of Section XLVI., fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the vessel, or other matter to which such certificate relates, such Master shall be liable to a fine not exceeding five thousand Rupees, besides incurring a forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.

Penalty for proceeding to Sea without tow.

LXXVIII. If the Master of a vessel sailing from the port of Calcutta, licensed under Section XLVI. and sailing with Emigrants on board, shall without reasonable excuse cause or allow his vessel to proceed from Garden Reach to Sea, or to proceed any part of the distance between Garden Reach and Sea, without his vessel being under tow of a competent Steamer, or if such vessel shall not have left Garden Reach and proceeded on her voyage within the time prescribed in Section LIX., the Master of such vessel shall be liable to a fine not exceeding one thousand Rupees.

Customs Officers and Pilots may search and detain for purposes of this Act.

LXXIX. All the powers vested by law in the Officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration shall be lawful under this Act, and of other offences against this Act; and all Pilots in the service of or licensed by Government are hereby vested with the same powers and charged with the same duties as Officers of Customs in this behalf.

LXXX. Repealed by Act VI. of 1869.

Prosecution how and where to be instituted.

LXXXI. All prosecutions under this Act shall be instituted, on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an Officer appointed for the purpose by the local Government, before a Magistrate of

Police, or before the Magistrate of the District, according as they shall be instituted for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras, and Bombay. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Officer imposing the fine. When a warrant of distresss is issued, the said Officer may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Officer imposing the fine, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Officer whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Officer imposing the fine, he shall, by warrant, commit the offender to jail, there to be imprisoned, with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount. The fine or any part thereof which remains unpaid may be levied at any time within six years after the passing of the order imposing it; and the death of the offender does not discharge from the liability any property which would after his death be legally liable for debts.

Levy of fines.

LXXXII. It shall be lawful for the local Government from time to time to authorize any person invested with the powers of a Magistrate as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and conferred on the Magistrate of the District: and every person so authorized shall in all respects for the purposes of this Act be deemed to be included in the words "the Magistrate of the District."

Any person specially authorized may exercise the powers of the Magistrate under this Act.

LXXXIII. So much of Section VIII. of Act XLVI. of 1860 as enacts that a fee not exceeding one Rupee per Emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every license in the said Section mentioned, is hereby repealed. Save as aforesaid, nothing in this Act shall be held to repeal the said Act XLVI. of 1860, or Act VII. of 1862; but Section XIX to Section XLI., both included, being provisions for regulating the recruitment of Native laborers which will have effect on the recruitment of laborers for British Colonies, shall, as provided in Section IV. of the said Act XLVI. of 1860, apply to emigration under the said Acts XLVI. of 1860 and VII. of 1862.

This Act, except certain Sections, not to apply to emigration to the French colonies.

LXXXIV. Repealed by Act XIV. of 1870.

LXXXV. Nothing in this Act or in any Rule to be made by the Governor-General of India in Council under Section LXIII., shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act and Rules made under it not to apply to certain vessels.

ACT No. XVII. OF 1864.

(Received the assent of the Governor-General on the 24th March.)

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1. Interpretation.—High Court.—Chief Justice.—Person.—Number.—Gender.—

2. Act XVII. of 1843 repealed.

3. Official Trustee under Act XVII. of 1843 to act as if appointed under this Act, save as regards remuneration.

4. Official Trustee to be appointed in each Presidency.

5. Appointment, suspension, and removal of Official Trustees.

6. Administrator General may be appointed Official Trustee. Security to be given by Official Trustee.

7. Leave of absence of Official Trustee, and appointment of a person to officiate for him.

8. Official Trustee may, with his consent, be appointed Trustee of a settlement by grantor, &c.

9. Official Trustee appointed under preceding Section, to receive only the remuneration specified in the deed.

10. Under what other circumstances Official Trustee may be appointed Trustee of any property.

11. Rate of Commission under last preceding Section.

12. What expenses, &c., commission to cover.

13. Official Trustee to be in all cases sole Trustee.

14. Official Trustee how to invest Trust money.

15. High Court may make orders as to property vested in Official Trustee.

16. Re-transfer of Trust property to original, or transfer to other, Trustee.

17. Order appointing Official Trustee. On death, &c. of Official Trustee, property to vest in his successor.

18. Official Trustee to sue or be sued by his name of Office. Suit not to abate by death, &c. Proviso.

19. Official Trustee to keep a separate account of each Trust, to be open to inspection by the Chief Justice, and any person authorized by him to demand inspection.

20. Chief Justice may make and alter rules and orders for custody of Trust Funds, &c.

21. Publication of orders, &c.

22. Official Trustee to furnish Annual Schedules which shall be filed in the High Court. Inspection of Schedules so filed.

23. Chief Justice to appoint Auditors.

24. Auditors to examine Schedules and accounts of Official Trustee and to report to Chief Justice.

25. Auditors to have power to summon witnesses and to call for books, &c. Penalty for refusal or neglect to attend, produce books, &c.

26. Costs of preparing Schedules, &c., how to be paid.

27. Matters to be reported on by the Auditors.

28. Proceedings upon such report.

29. Costs upon such proceedings, &c., how to be defrayed.

30. Orders of the High Court to have the effect of, and to be executed as decrees.

31. Who may apply for order under this Act.

32. Executor or administrator may, by leave of the High Court, pay to Official Trustee, legacy, share, &c., to which an Infant or Lunatic is entitled.

An Act to constitute an Office of Official Trustee.

Preamble.

Whereas it is expedient to amend the law relating to Official Trustees, and to constitute an Office of Official Trustee; It is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the context repugnant to such construction, that is to say:—

"High Court.

The expression "High Court" shall mean Her Majesty's High Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay respectively in the exercise of their original Civil jurisdiction.

"Chief Justice."

The expression "Chief Justice" shall mean the Chief Justice or Acting Chief Justice for the time being of any of the said High Courts.

"Person."

The word "person" shall include a corporation.

Number.

Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

Act XVII. of 1843 repealed.

II. Act XVII. of 1843 (*for the appointment of Official Trustees in certain cases*) is hereby repealed except as to any proceedings pending or any Trusts now vested in an Official Trustee under it, and except in so far as that Act is made applicable to the Settlement of Prince of Wales' Island, Singapore and Malacca by Act XIV. of 1852 (*for extending the provisions of Acts XXIV. of 1841 and, XVII. of 1843 to the Straits' Settlement.*)

Official Trustee under Act XVII. of 1843 to act as if appointed under this Act, save as regards remuneration.

III. Every Official Trustee appointed under the said Act XVII. of 1843 shall, save as regards the remuneration to be received by him, hold and execute the Trusts of which he is Trustee in all respects as if he were an Official Trustee appointed under this Act.

Official Trustee to be appointed in each Presidency.

IV. In each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an Official Trustee. The said Official Trustees shall be called the Official Trustee of Bengal, the Official Trustee of Madras, and the Official Trustee of Bombay respectively.

V. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his Office by the authorities hereinafter named, that is to say—

Appointment, suspension, and removal of Official Trustees.

The Official Trustee of Bengal by the Chief Justice of Her Majesty's High Court of Judicature at Fort William in Bengal.

The Official Trustee of Madras by the Chief Justice of Her Majesty's High Court of Judicature at Fort St. George.

The Official Trustee of Bombay by the Chief Justice of Her Majesty's High Court of Judicature at Bombay.

VI. The Administrator General or Officiating Administrator General for the time being of any of the said Presidencies shall be eligible for the Office of Official Trustee of that Presidency. Every Official Trustee appointed under this Act shall give security for the due execution of the duties of his Office in such manner and to such amount as the Chief Justice by whom he is appointed shall direct.

Administrator General may be appointed Official Trustee.

Security to be given by Official Trustee.

VII. It shall be lawful for the Chief Justice of the High Court at any of the Presidencies, from time to time, to grant leave of absence to the Official Trustee of that Presidency, but subject always to such and the like rules as may be for the time being in force as to leave of absence of the Officers attached to such High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee, and such person while so officiating shall be subject to the same conditions and be bound by the same responsibilities as the Official Trustee, and he shall be deemed to be the Official Trustee for the time being under this Act, and shall be liable to give security for the due execution of the duties of his Office in like manner as if he had been appointed Official Trustee.

Leave of absence of Official Trustee, and appointment of a person to officiate for him.

VIII. If any person shall be about to grant, assign, or settle any property moveable or immoveable, of what nature or kind soever, upon or subject to any Trust, whether for a charitable purpose or otherwise, it shall be lawful for such person, with the consent of the Official Trustee, to appoint him by the deed creating the Trust, to be the Trustee of such settlement; and upon such appointment the property so granted, assigned, or settled shall vest in such Officer and his successors in Office, and shall be held by him and them upon the Trust declared and contained in the said deed. Provided always that the consent of the Official Trustee shall be recited in the said deed, and that the deed shall be duly executed by the Official Trustee: provided also that no Trust for any religious purpose shall ever be held by the Official Trustee, under this or under any other Section of this Act.

Official Trustee may, with his consent, be appointed Trustee of a settlement by grantor, &c.

IX. Every Official Trustee appointed Trustee of any property under the last preceding Section, shall be entitled to receive by way of remuneration in that behalf such sum or sums only as he shall by the deed of settlement be declared to be entitled to receive.

Official Trustee appointed under preceding Section, to receive only the remuneration specified in the deed.

X. If any property is subject to a Trust, whether for a charitable purpose or otherwise, and there shall be no Trustee willing to act or capable of acting in the Trust thereof, who is within the local limits of the ordinary or extraordinary original Civil jurisdiction of the High Court, or if property is subject to a Trust, and all the Trustees, or the surviving or continuing Trustee and all the persons beneficially interested in the said Trust, shall be desirous that the Official Trustee shall be appointed in the room of such Trustees or Trustee, then and in any such case it shall be lawful for the High Court on petition, and with the consent of the Official Trustee, to appoint the Official Trustee to be the Trustee of such property; and upon such appointment such property shall vest in the Official Trustee and his successors in Office, and shall be held by him and them upon the same Trusts as the same were held previous to such appointment.

Under what other circumstances Official Trustee may be appointed Trustee of any property.

XI. The Official Trustee shall be entitled by way of remuneration, in respect of all Trust property transferred to him under the last preceding Section, to a commission the rate of which shall be as follows, that is to say,—

Rate of Commission under last preceding Section.

On all capital monies received by him, a commission of one-half per cent. on receiving the same.

On all capital monies invested by him, a commission of one-half per cent. on investing the same.

On all sums received by him by way of interest or dividends in respect of monies invested, a commission of three-quarters per cent.

On all rents collected by him, a commission of two and a half per cent.

XII. The Official Trustee shall defray all the expenses of the establishment necessary for his Office, including the provision of Office accommodation together with all other charges to which the said Office shall be subject, except those for which express provision is made by this Act, and except those costs of litigation

What expenses &c., commission to convey.

and the like which a Trustee would, under ordinary circumstances, be entitled to pay for out of the Trust monies in his hand. The commission to which the Official Trustee shall be entitled, is intended to cover all the expenses and risk and responsibility of management, collection, and distribution.

Official Trustee to be in all cases sole Trustee.

XIII. It shall in no case be lawful to appoint the Official Trustee to be a Trustee along with any other person: but the Official Trustee shall always be sole Trustee.

Official Trustee how to invest Trust money.

XIV. The Official Trustee shall cause all capital monies received by him to be invested in Government securities, or otherwise as the Court shall direct: and if in any case the Trust funds or any part of them shall at the time of their vesting in the Official Trustee be invested otherwise than as provided in the deed or Will creating the Trust or than as ordered by the Court, it shall be the duty of the Official Trustee, as soon as he reasonably can, to realize the funds so improperly invested, and to invest same in Government securities or otherwise as the Court shall direct.

High Court may make orders as to property vested in Official Trustee.

XV. The High Court may make any such orders as shall seem to it necessary respecting any Trust property vested in the Official Trustee, or the interest or produce thereof. All such orders shall be made on petition, unless the Court shall direct a suit to be instituted.

Re-transfer of Trust property to original, or transfer to other, Trustee.

XVI. Nothing in this Act shall prevent the re-transfer of any Trust property which may have become vested in the Official Trustee, to the original or any subsequently appointed Trustee, or to such person as the Court shall direct, unless otherwise provided by the deed or Will creating the Trust.

Order appointing Official Trustee.

XVII. All orders which shall be made appointing any Official Trustee to act as Trustee in virtue of his Office, shall appoint him by his name of Office and shall authorize the Official Trustee for the time being of the same Presidency to act as Official Trustee of the property to which such order shall relate: and all property and interests which at the time of the death, resignation, or removal from Office of any Official Trustee shall be vested in him by virtue of such order, shall upon such death, resignation, or removal cease to be vested in him, and shall vest in his successor in Office immediately upon his appointment thereto, and all books, papers, and documents kept by such Official Trustee by virtue of his Office shall be transferred to and vested in his successor in Office.

On death, &c., of Official Trustee, property to vest in his successor.

Official Trustee to sue or be sued by his name of Office. Suit not to abate by death. &c.

XVIII. All actions, suits, or other proceedings which shall be commenced by or against any Official Trustee in his official character, may be brought by or against him by his name of Office, and no suit, action, or other proceeding already commenced or which shall be commenced by or against any person as Official Trustee either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from Office of any such Official Trustee, but the same may by order of the Court and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing herein contained shall render any such successor personally liably for any costs incurred prior to the order for continuing the action or suit against him or shall release an Official Trustee who has resigned or been removed from his Office, or the heirs, executors, administrators, or representatives of a deceased Official Trustee from being liable for any such costs.

Proviso.

Official Trustee to keep a separate account of each Trust, to be open to inspection by the Chief Justice, and any person authorised by him to demand inspection.

XIX. Every Official Trustee appointed under this Act shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each Trust of which he is the Trustee, and of all such sums of money and securities for money, goods, and things, as shall come to his hands, or to the hands of any person employed by him, or in Trust for him, under this Act, and likewise of all payments made by him on account of such Trust, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Official Trustee's Office, and shall be at all times open for the inspection of the Chief Justice and of any person authorized by him to demand inspection thereof.

Chief Justice may make and alter rules and orders for custody of Trust Funds, &c.

XX. The Chief Justice shall have power, from time to time to make and alter any general rules and orders consistently with the provisions of this Act, for the safe custody of the Trust Funds and securities which shall come to the hands or possession of the Official Trustee, and for the remittance to Europe or elsewhere of all sums of money which shall be payable or belong to persons resident in Europe or elsewhere, or in other cases where such remittances shall be required, and generally for the guidance and government of the Official Trustee in the discharge of his duties; and may by such rules and orders, amongst other things, direct what books, accounts, and statements, in addition to those mentioned in this Act, shall be kept by the Official Trustee, and in what form the same shall be kept

and what entries the same shall contain, and where the same shall be kept, and where and how the funds and securities and other the property belonging to the Trust of which the Official Trustee is the Trustee shall be kept or invested or deposited, and how any remittances thereof shall be made.

Publication of orders, &c.

XXI. Such orders shall be published in the Official Gazette, and it shall be the duty of the several Official Trustees to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Official Trustee to furnish Annual Schedules which shall be filed in the High Court.

XXII. The Official Trustee of each of the said Presidencies shall once in every year, that is to say, on the first day of March, or on such other day as the Chief Justice shall direct, deliver to the Chief Justice a true Schedule showing the gross amount of all sums of money received or paid by him on account of each Trust of which he is the Trustee, and the balances during the year ending on the thirty-first day of December next before the day of delivering such Schedule, and a true list of all securities received on account of each of the said Trusts during the same period; and also a true Schedule of all trusts which shall have come to an end or of which the Official Trustee shall have ceased to be the Trustee and the property subject to which shall have been paid or made over to the persons entitled to the same or to new Trustees during the same period, specifying the nature and amount or value of such property and the persons to whom paid or made over. The Chief Justice shall cause the said Schedules to be filed as record in the High Court; but it shall not be lawful for any person to inspect the same or to make copies thereof or of any part thereof, except on an order granted by the Chief Justice permitting him so to do.

Inspection of Schedules so filed.

Chief Justice to appoint Auditors.

XXIII. The Chief Justice shall from time to time appoint an Auditor or Aditor to examine the accounts of the Official Trustee at the time of the delivery of the said Schedules and also at any other time when the Chief Justice shall think fit.

Auditors to examine Schedules and accounts of Official Trustee and to report to Chief Justice.

XXIV. The Auditor or Auditors shall examine the Schedules and accounts, and report to the Chief Justice whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as aforesaid shall be directed to be kept by the Official Trustee, have been duly and regularly kept, and whether the Trust funds and securities have been duly kept and invested and deposited in the manner prescribed by any such rules and orders to be made as aforesaid.

Auditors to have power to summon witnesses and to call for books, &c.

XXV. Every Auditor shall have power to summon as well the Official Trustee as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Official Trustee or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers, and documents, which shall appear to him to be necessary for the purposes of the said reference; and if the Official Trustee or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher, or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the High Court; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said High Court.

Penalty for refusal or neglect to attend, produce books, &c.

Costs of preparing Schedules, &c., how to be paid.

XXVI. The costs and expenses of preparing the said Schedules and accounts and of every such reference and examination as aforesaid, shall be defrayed by all the Trust estates to which such Schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed by each of the said Trust estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Chief Justice, and shall be paid out of the said estates accordingly by the Official Trustee.

Matters to be reported on by the Auditors.

XXVII. If upon any such reference and examination the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the Trust Funds and securities have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Official Trustee has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Chief Justice.

Proceedings upon such report.

XXVIII. The Chief Justice may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the High Court by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the Trust estates then or formerly under the charge

of such defaulter; and the Court shall have power, upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs upon such proceedings, &., how to be defrayed.

XXIX. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants, or out of the Trust estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Official Trustee or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the High Court to have the effect of, and to be executed as, decrees.

XXX. Any orders which shall be made by any of the said High Courts shall have the same effect and be executed in the same manner as decrees.

Who may apply for order under this Act.

XXXI. Any order under this Act may be made on the application of any person beneficially interested in any Trust property, or of any trustee thereof, whether under disability or not.

Executor or administrator may by leave of the High Court, pay the Official Trustee, legacy, share, &c., to which an Infant or Lunatic is entitled.

XXXII. If any infant or lunatic shall be entitled to any gift or legacy or residue or share thereof, it shall be lawful for the Executor or Administrator by whom such legacy, residue, or share may be payable or transferable, or the party by whom such gift may be made, or any Trustee of such gift, legacy, residue, or share, to pay or transfer the same to the Official Trustee appointed under this Act; provided that the leave of the High Court to make such payment or transfer shall be first obtained by motion made on petition. Any money or property paid or transferred to the Official Trustee or invested in him under this Section shall be subject to the same provisions as are contained in this Act as to other property vested in such Official Trustee under the provisions thereof.

ACT NO. XVIII. OF 1864.*

(Received the assent of the Governor-General on the 24th March.)

1. Appointment of Municipal Committee.

2. Ex-officio Members of Committee. Non-Official Members to be elected annually.

3. Chief Commissioner to define limits of Lucknow, and to regulate the mode of election. Appointment of Non-Official Members to be subject to his approval.

4, Chief Commissioner may remove Non-Official Members.

5. Powers of the Committee how to be limited or suspended.

6. What officers to be President, Vice-President, and Secretary of the Commitee.

7. Committee to do acts necessary for the conservancy and improvement of the City consistently with law.

8. What contract may be made by the Commitee and in what mode.

9. Members of the Committee not to be personally liable upon contracts made by the Committee. Under what circumstances to be liable for the misapplication of money entrusted to the Committee.

10. Annual estimate of expenditure to be incurred during the year, to be sent to Chief Commissioner.

11. Accounts and statement of work done, receipts, and expenditure, to be annually furnished to Chief Commissioner.

12. Municipal Fund.

13. Duty to be levied on articles taken into the City of Lucknow for consumption or use. Rates how to be fixed.

14. Money received on account of duty to whom to be paid.

15. Power of the Committee to make Bye-laws.

16. Bye-laws to be approved by Chief Commissioner.

* This Act is amended by Act XXII. of 1865.

17. Copies of Bye-laws to be exhibited in the office of the Committee.
18. Bye-laws to be of the same effect as if they were inserted in this Act.
19. Before whom prosecutions to be instituted under this Act.
20. Control to be exercised by the Government.
22. A system of taxation for such place may be established in lieu of the provisions of Sections 13 and 14 of this Act. Proviso.

An Act to provide for the appointment of a Municipal Committee for the City of Lucknow.

Preamble.

Whereas it is expedient to make provision for the appointment of a Municipal Committee for the City of Lucknow, and for levying duties on certain articles brought within the limits of the said City for consumption there, and generally for the regulation of all matters relating to the conservancy and improvement of the said City; It is enacted as follows—

Appointment of Municipal Committee.

I. On and after such date as the Chief Commissioner of Oudh shall order, there shall be a Committee for the purposes of this Act, which shall be called "The Municipal Committee of the City of Lucknow." The said Committee shall consist of twenty-five Members, of whom six shall be *ex-officio* Members.

Ex-officio Members of Committee.

II. The persons for the time being filling the following Offices shall respectively be *ex-officio* Members of the Municipal Committee. That it is to say, the persons filling the Offices of—

Commissioner of Lucknow,
Deputy Commissioner of Lucknow,
Inspector General of Police in Oudh,
Civil Surgeon of Lucknow,
Executive Engineer of Lucknow,
City Magistrate of Lucknow.

Non-Official Members to be elected annually.

The Non-Official Members of the said Committee shall be elected annually by and from amongst the inhabitants of the City, and shall hold office for one year only, but shall be eligible for re-election.

Chief Commissioner to define limits of Lucknow, and to regulate the mode of election. Appointment of Non-Official Members to be subject to his approval.

III. The Cheif Commissioner of Oudh shall from time to time declare what shall be deemed to be the limits of the City of Lucknow for the purposes of this Act. He shall also declare who are, for the purposes of the last preceding Section, to be deemed inhabitants of the said City, and shall lay down rules fixing the times when the election of the Non-Official Members of the Committee shall take place, and regulating the manner in which the elections shall be conducted. The appointment of every Non-Official Member shall be subject to the approval of the Chief Commissioner, and in the event of any person elected not being approved of by him, the inhabitants shall proceed forthwith to elect another person in his stead.

Chief Commissioner may remove Non-Official Members.

IV. It shall be lawful for the Chief Commissioner to remove from office any Non-Official Member of the Committee; and in the event of any such Member being so removed, it shall be in the discretion of the Chief Commissioner to determine whether or not any person shall be elected to supply his place for the unexpired portion of the year for which such Member was elected.

Powers of the Committee how to be limited or suspended.

V. It shall be lawful for the Chief Commissioner at any time, with the sanction of the Governor-General of India in Council, to suspend or limit the powers or any of the powers of the Committee.

What officers to be President, Vice-President, and Secretary of the Committee.

VI. The Commissioner of Lucknow for the time being shall be the President of the Committee; the Deputy Commissioner of Lucknow shall be the Vice-President, and the City Magistrate of Lucknow shall be the Secretary.

Committee to do acts necessary for the conservancy and improvement of the City consistently with law.

VII. The Municipal Committee, so far as the funds at their disposal will permit, shall keep the streets, drains, and tanks of the City properly cleansed and repaired, and shall cause the said streets or such of them as may to them seem proper, to be lighted, and may construct new streets, drains, and tanks, and generally may do all acts and things necessary to the conservancy and improvement of the City, so far as such acts and things be not repugnant to or inconsistent with the provisions of this or any other Law.

What contracts may be made by the Committee and in what mode.

VIII. It shall be lawful for the Municipal Committee from time to time to enter into all necessary contracts for the purposes of this Act. Such contracts, if in writing, shall be signed by the Secretary and at least three Members of the Committee, and if any such contract be not reduced to writing, it shall be made with the Secretary. No contract made otherwise than as herein declared shall be in any way binding on the Committee, and no contract involving an expenditure of more than ten thousand Rupees shall be binding on the Committee unless made in writing and with the sanction of the Chief Commissioner of Oudh.

Members of the Committee not to be personally liable upon

IX. No Member of the Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee; but the funds from time to time in the hands of the Committee shall be liable for and chargeable with

contracts made by the Committee.

Under what circumstances to be liable for the misapplication of money entrusted to the Committee.

all contracts and expenses duly incurred as aforesaid. Every Member of the Committee shall be liable for any misapplication of any monies entrusted to the committee, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty, and he shall be liable to be sued for the same in such Court as the Chief Commissioner of Oudh shall direct, as for money due to the Government of India.

Annual estimate of expenditure to be incurred during the year, to be sent to Chief Commissioner.

X. The Committee shall each year, on or before such date prior to the first day of May as shall be fixed by the Chief Commissioner, furnish the Chief Commissioner with a statement or estimate (in such form as the Chief Commissioner shall direct) showing the expenditure which it is proposed by the Committee to incur during the year commencing on the first day of May then next, and the items in respect of which it is proposed to made such expenditure.

Accounts and statement of work done, receipts, and expenditure, to be annually furnished to Chief Commissioner.

XI. The Committee shall, as soon as may be after the first day of May in each year, provide the Chief Commissioner with a statement in detail of all the work done by them and of all sums received and of all sums expended by them during the year ending on the thirtieth day of April then next preceding, in such form as the Chief Commissioner shall from time to time direct.

Municipal Fund.

XII. All such monies as the Chief Commissioner or any other person shall from time to time make over to the Municipal Committee for the purposes of this Act and all fines levied under this Act shall form a Municipal Fund, of which the Committee shall be the Trustees, and which shall be applied by the Committee to the conservancy and improvement of the City of Lucknow, and to the payment of the salaries and wages of the Officers and servants employed by the Committee, and all other expenses incurred in or about the carrying out the provisions of this Act.

Duty to be levied on articles taken into the City of Lucknow for consumption or use. Rates how to be fixed.

XIII. Duties on such things, and at such rates as the Chief Commissioner shall with the sanction of the Governor-General of India in Council from time to time declare, shall be levied in respect of the said things when brought into the City of Lucknow for consumption or use therein. The said duties shall be collected by such persons and in such manner as the Chief Commissioner shall direct. It shall be lawful for the Chief Commissioner to farm or let out the collection thereof for such period or periods as he shall think fit, but he shall in every case lay down rules as to the mode of levying and collecting the duties, and such rules shall have the like force and effect as Bye-laws duly made by the Committee.

Money received on account of duty to whom to be paid.

XIV. All monies received on account of the duties aforesaid, if the same be collected directly under the orders of the Chief Commissioner, and all monies received from the farming or letting out the collection of the duties, shall be paid into the Bank of Bengal to the credit of the Chief Commissioner. Out of the monies paid in under this Section, the Chief Commissioner shall (after defraying the costs of collection if any) make over to the Committee, for the purposes of this Act, such sum, not being less than one-third of the monies so paid in, as shall to the Chief Commissioner seem proper.

Power of the Committee to make Bye-laws.

XV. The Municipal Committee may from time to time make such Bye-laws as they may think fit, for defining, prohibiting, and removing nuisances which are not public or common nuisances under the Indian Penal Code: for regulating the time and place of meeting of the Committee; the conduct of business at such meetings; the division of duties among the Members of the Committee; the appointment, suspension, and removal of Officers and servants of the Committee, and fixing the salaries of such Officers and servants; for imposing penalties for the infringement of any Bye-law made by the Committee; and generally for the management of all matters connected with the conservancy and improvement of the City. The Committee may also from time to time repeal, alter, and amend any such Bye-laws. Provided that no Bye-law shall be repugnant to any law in force. Provided also that no penalty for the infringement of any such Bye-law shall exceed fifty Rupees, and that, in case of a continuing infringement, no penalty shall exceed ten Rupees for every day after notice from the Committee of such infringement.

Bye-laws to be approved by Chief Commissioner.

XVI. No Bye-law or alteration of a Bye-law shall have effect until the same shall have been approved and confirmed by the Chief Commissioner, and shall have been duly published for such length of time and in such manner as the Chief Commissioner shall order.

Copies of Bye-laws to be exhibited in the office of the Committee.

XVII. A copy in the English and Hindoostanee languages, of every Bye-law and alteration of a Bye-law for the time being in force shall be painted on or affixed to boards, and such boards shall at all times be hung up in some conspicuous part of the office of the Committee.

Bye-laws to be of the same effect as if they were inserted in this Act.

XVIII. All Bye-laws, when the same shall have been duly confirmed and published shall, until the same be repealed or altered be of the like effect as if they were inserted in in this Act.

XIX. All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and all fines imposed may be recovered in the manner prescribed in Section 61 of the said Code. The amount of all fines realized shall be paid to the Municipal Committee and be applied by them to the purposes of this Act.

Before whom prosecutions to be instituted under this Act.

XX. The Chief Commissioner of Oudh shall, in every thing done under or relating to this Act, be subject to the orders and control of the Governor-General of India in Council.

Control to be exercised by the Government.

XXI. Repealed by Act XXII. of 1865.

XXII. The Chief Commissioner of any place to which this Act shall be extended under the last preceding Section may, with the sanction of the Governor-General of India in Council declare that Sections XIII. and XIV. or either of them, or any of the provisions of those Sections, shall be of no effect in such place, and may also, with the like sanction, define the persons or property within such place to be taxed for raising the monies necessary for the purposes of this Act, whether by house assessment or town duties or otherwise, the amount or rate of the taxes to be imposed, the manner of raising and collecting them and ensuring the safety and due application of them when collected. Provided that no tax duty, or other rate shall be levied under this Section in any place in which duties are levied under Section XIII. of this Act.

A system of taxation for such place may be established in lieu of the provisions of Sections 13 and 14 of this Act.

Proviso.

ACT No. XIX. OF 1864.

(Received the assent of the Governor-General on the 24th March.)

1. Certain tracts removed from the jurisdiction of the ordinary tribunals. Proviso.

2. Repealed.

An Act to remove certain tracts of Country in the District of Mirzapore from the jurisdiction of the local Courts.

Preamble.

Whereas it is expedient to remove certain tracts of country in the District of Mirzapore from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Officers of that District under the General Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from the Jurisdiction of the ordinary tribunals.

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Officers of Revenue, constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor-General of India in Council Provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

II. Bill 10 of 1870, proposes to repeal Sections 2, 3 and 4.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—
Pergunnah Agoree, Tuppahs Agoree Khas and South Kone.
Pergunnah Singrowlee, Tupdah British Singrowlee.
Pergunnah Bicheepore, Tuppahs Phoolwa, Doodhee, and Burha.

ACT No. XXI. OF 1864.

(Received the assent of the Governor-General on the 1st April.)

1. Persons guilty of certain offences may be tried summarily by a Police Magistrate.

2. *Sections 62, 63, 308, 309, 310, 311, 312, 313, and 314 of the Criminal Procedure Code extended to town of Calcutta.*
3. *Magistrate may take cognizance of offences without complaint made.*
4. *Procedure in such case.*
5. *Commencement of Act.*
6. *This Act may be extended by the Governments of Madras and Bombay.*

An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.

Preamble.

Whereas it is expedient to empower the Magistrates of Police in Calcutta to punish summarily certain offences in addition to those which they are now empowered so to punish; It is enacted as follows:—

Persons guilty of certain offences may be tried summarily by a Police Magistrate.

I. Every case in which any person is charged before a Magistrate of Police in Calcutta with having, within the limits of the said Town, or within the limits of the Port of Calcutta as those limits are or may hereafter be defined under Act XXII. of 1855 (*for regulation of Ports and Port-dues*), committed any offence under any of the provisions contained in Chapter XIV. of the India Penal Code except Sections 280 and 281, may be heard and determined by such Magistrate in a summary way: and every such person shall, on conviction by such Magistrate, be punished in the manner provided by the Indian Penal Code for the punishment of the offence of which he shall be convicted. Provided that no Magistrate shall under this Act be competent to pass sentence in respect of any offence beyond the following limits, that is to say:—Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in cases in which both punishments are authorized by the Indian Penal Code. Provided also that the Magistrate may commit to the High Court for trial any such case which he may in his discretion think it proper so to commit.

Section 62, 63, 308, 309, 310, 311, 312, 313, and 314 of the Criminal Procedure Code extended to town of Calcutta.

II. Sections 62, 63, 308, 309 310 311, 312, 313, and 314 of the Code of Criminal Procedure are hereby extended to and shall have operation within the town of Calcutta and within the limits of the Port of Calcutta defined as aforesaid, and the words "Magistrate" and "Magistrate of a District" as used in the said Sections shall denote any Magistrate of Police in Calcutta who may be authorized in that behalf by the local Government.

Magistrate may take cognizance of offences without complaint made.

III. Any Magistrate of Police in Calcutta, authorized as aforesaid, may without any complaint take cognizance of any offence which he has power to hear and dispose of in a summary manner, which may come to his knowledge, and he may issue a summons, or, in cases where a warrant may issue, a warrant of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.

Procedure in such cases.

IV. Save as in this Act otherwise provided, the procedure contained in Act XIII. of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, Bombay*) as amended by Act XLVIII of 1860 (*to amend Act XIII of 1865*) shall be applicable to offences committed and charges made under this Act.

Commencement of Act.

V. This Act shall come into operation on the first day of May 1864.

This Act may be extended by the Governments of Madras and Bombay.

VI. This Act may by an order of the Governor in Council of Fort St. George, or of the Governor in Council of Bombay respectively, to be published in the Official Gazette, be extended to the Towns and Ports of Madras and Bombay, and when so extended by such order, shall take effect in the Town and Port to which the order shall relate from the date of the publication of such order. When so extended to either the Towns and Port of Madras, or the Town and Port of Bombay, this Act shall in all respects apply to such Town and Port as if the name of such Town and Port had appeared in this Act wherever the name of Calcutta appears.

ACT No. XXII. OF 1864.

(Received the assent of the Governor-General on the 1st April.)

1. *Interpretation.—"British India."—"Local Government."—"Section."—Number.—Gender.*
2. *Repealed.*
3. *Jurisdiction of a Cantonment Magistrate.*

4. Cantonment Magistrate to be deemed in charge of a Division of a District.
5. Assistant Cantonment Magistrates.
6. Small Cause Courts may be established in Cantonments.
7. Act XLII. of 1860 to apply to all such Courts.
8. Acts establishing Military Courts of Requests to cease to have effect in Cantonments where Cantonment Magistrates are appointed to be Small Cause Court Judges.
9. Assistant Cantonment Magistrate may be invested with powers of a Small Cause Court Judge in suits for an amount not exceeding fifty Rupees.
10. Repealed.
11. Act V. of 1861 applicable to Police employed in Military Cantonments. Administration of Police within Cantonments.
12. Extension of Sec. XXXIV., Act V. of 1861, to Military Cantonments.
13. Service and execution, through Cantonment Magistrate, of process issued by Commanding Officer of a Cantonment.
14. Local Government may extend Act XX. of 1856 to any Military Cantonment.
15. And may order division of Cantonment, &c.
16. And may make rules for regulating expenditure of funds raised.
17. And may make general or special Regulations to provide for certain matters hereinafter mentioned.
18. Regulations to be confirmed by Governor-General in Council.
19. For what matters Regulations may provide.
20. Trial of breaches of Regulations.
21. Amount of fine imposed how to be levied.
22. Imprisonment in case of amount not being levied.
23. Place of such imprisonment.
24. Prosecutions, &c., under other Regulations, &c., not barred by this Act.
25. For protection of the health of the troops, Rules and Regulations made under 7th Cl. of Section XIX, may be extended beyond limits of Cantonments.
26. How penalties may be imposed and enforced for breach of Rules and Regulations in extended limits.
27. Courts, &c., to take judicial notice of Rules and Regulations made under this Act.
28. Effect of Rules, &c., made under Section XVII. of this Act in respect of Regulations, &c., previously in force. Proviso.
29. Penalty for the unauthorized sale of spirits, &c., to certain persons in Cantonments.
30. Spirits, &c., to be confiscated in certain cases.
31. Penalty on certain persons for having in their possession within Cantonments more than a certain quantity of spirits without a permit.
32. Arrest of persons offending against Section 30 or 31 and seizure of the liquor &c. in their possession.
33. Confiscation of intoxicating liquor, &c., in respect of which there may be a conviction, or which may be in possession of the party convicted.
34. Property seized under this Act may be detained until party charged with offence is convicted or acquitted. How to be then disposed of.
35. Saving of all articles sold or supplied for medicinal purposes.
36. Act not to affect jurisdiction of Courts Martial, &c. Proviso.
37. Repealed.
38. Place of operation of this Act.
39. This Act may be extended by order of the Governor-General in Council to certain other places.
40. To what places this Act may be extended by the Governments of Madras, Bombay, and the Punjab.
41. To what places this Act may be extended by the Government of Bengal, or of the North-Western Provinces.
42. Publication of Orders extending the operation of this Act.
43. Authority to which commitments shall be made and appeals preferred, if Cantonment be not situate in any district in which there is any person exercising the powers of a Court of Session.
44. In certain cases powers vested in the Sudder Court under Act XLII. of 1860 shall be exercised by such authority as the Governor-General in Council shall declare.
45. In certain cases, for purposes of Registration under Act XVI. of 1864, the Government to declare what authorities to be deemed District Register and Registrar General.

46. Regulation and Acts inconsistent with this Act, when to cease to have effect in Cantonments in Madras, Bombay, and the Punjab.

An Act to make provision for the Administration of Military Cantonments.

Preamble.

Whereas it is expedient to make provision for regulating the administration of Civil and Criminal Justice and the superintendence of Police and Conservancy, for protecting the public health within the limits of Military Cantonments, and for laying down local Rules and Regulations to be enforced within such limits; It is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"British India."

The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106, entitled "*An Act for the better Government of India*," except the settlement of Prince of Wales' Island, Singapore, and Malacca:

"Local Government."

The words "Local Government" denote the person or persons authorized by law to administer Executive Government in any part of British India:

"Section."

The word "Section" denotes a Section of this Act:

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number:

Gender.

Words importing the masculine gender include females.

II. Repealed by Act XIV. of 1870.

Jurisdiction of a Cantonment Magistrate.

III. When any person shall be invested by the local Government under the provisions of Section XXIII. of the Code of Criminal Procedure, with the powers of a Magistrate within the limits of any Military Cantonment, such person shall be styled the Cantonment Magistrate, and within the limits of such Cantonment shall, subject to the control of the Magistrate of the District in which such Cantonment is situate, exercise the powers of a Magistrate as defined in the said Code, for the purpose of disposing of all cases arising within such Cantonment which the Magistrate of the District might dispose of, and for the commitment for trial before the Court of Session of the District or place in which such Cantonment is situate, of any person charged with any offence triable before the Court of Session, or for which the person charged shall appear to deserve a more severe sentence than a Magistrate is competent under the said Code of Criminal Procedure to award.

Cantonment Magistrate to be deemed in charge of a Division of a District.

IV. The Cantonment Magistrate shall be considered a Magistrate in charge of a Division of a District within the meaning and for the purposes of the Code of Criminal Procedure.

Assistant Cantonment Magistrates.

V. When any person shall be invested by the local Government under the provisions of Section XXIII. of the Code of Criminal Procedure, with the powers of a subordinate Magistrate of the 1st or 2nd Class within the limits of any Militray Cantonment, such person shall be styled the Assistant Cantonment Magistrate and shall be subject to the Rules laid down for subordinate Magistrates in the said Code.

Small Cause Courts may be established in Cantonments.

VI. The local Government may within the limits of any Military Cantonment establish a Court of Small Causes for the trial of suits of the nature described in Section III. of Act XLII. of 1860, *for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established within his jurisdiction. The local Government shall from time to time declare the pecuniary limits of the jurisdiction of every Court established under this Section, but such limit shall in no case exceed five hundred Rupees.

Act XLII. of 1860 to apply to all such Courts.

VII. Every Court of Small Causes established under this Act shall be deemed to be a Court established under the said Act XLII. of 1860, and all the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

Acts establishing Military Courts of Requests to cease to have effect in Cantonments where Cantonment Magistrates are appointed to be Small Cause Court Judges.

VIII. Whenever a Court of Small Causes is established in any Military Cantonment under the provisions of Section VI, the jurisdiction exercised in such Cantonment by any Officer under Act III. of 1859 (*for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registrars of Deeds*) shall cease and determine, and so much of any Act as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall cease to have effect within the limits of such Cantonment.

Assistant Cantonment Magistrate may be invested with

IX. The local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court which is established under Section VI: provided that no

Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty Rupees.

powers of a Small Cause Court Judge in suits for an amount not exceeding fifty Rupees.

X. Any Military Cantonment may be declared by the local Government to be a Sub-District for the purposes of Act XVI. of 1864 (*to provide for the Registration of Assurances*). The Cantonment Magistrate of any Cantonment so declared shall be the Deputy Registrar thereof.*

Cantonment may be declared a Sub-District under Act XVI. of 1864.

XI. The Police Force employed in any Military Cantonment shall be deemed to be part of the General Police Force under the local Government in whose Territories such Cantonment is situate, within the meaning of Section II., Act V. of 1861 (*for the Regulation of Police,*) and all the provisions of the said Act shall be applicable to such Force. The administration of the Police within the limits of any Cantonment in which there shall be a Cantonment Magistrate shall be vested in the District Superintendent subject to the general control and direction of the Commanding Officer of such Cantonment.

Act V. of 1861 applicable to Police employed in Military Cantonments.

Administration of Place within Cantonment.

XII. The local Government may extend Section XXXIV. of the said Act V. of 1861 to any Military Cantonment situate in the Territories under such Government.

Extension of Section XXXIV., Act V. of 1861, to Military Cantonments.

XIII. The Commanding Officer of a Cantonment may send any process requiring service or execution by any means not immediately at his disposal, to the Chief Police Officer in the Cantonment f r service or execution through the Cantonment Police. and it shall be the duty of the said Chief Police Officer to serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

Service and execution, through Cantonment Magistrate, of process issued by Commanding Officer of a Cantonment.

XIV. It shall be lawful for the local Government to extend the provisions of Act XX. of 1856 (*to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Station, Suburbs, and Bazars, in the Presidency of Fort William in Bengal*), to any Military Cantonment to which a Cantonment Magistrate may be appointed, and the Cantonment Magistrate of any Military Cantonment to which the said Act shall be so extended may exercise all the powers vested in a Magistrate by that Act, subject only to the control of the Magistrate of the District and the local Government. If there be no Cantonment Magistrate, the Magistrate of the District shall carry out the provisions of the said Act when so extended as aforesaid.

Local Government may extend Act XX. of 1856 to any Military Cantonment.

XV. It shall be lawful for the local Government to order that any Military Cantonment to which the provisions of the said Act XX. of 1856 shall be extended, be divided into any number of Cantonment divisions, and to determine the nature of the tax to be levied in each such division according to Section X. of the said Act.

And may order division of Cantonment &c.

XVI. The local Government may prescribe rules for regulating the expenditure, for the general purposes of this Act, of any funds raised under the said Act XX. of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the Rules and Regulations made under Sections XVII. of this Act, in addition to or in lieu of the purposes described in Section XXXVI. of the said Act XX. of 1856.

And may make rules for regulating expenditure of funds raised.

XVII. The local Government shall have power to make Rules and Regulations, not inconsistent with the provisions of this Act or of any other law in force, to provide within the limits of any Military Cantonment for the matters hereinafter mentioned, and from time to time to repeal, or alter, such Rules and Regulations. The Rules and Regulations made under this Section may be general for all Military Cantonments in the Territories under the local Government making the same, or special for any one or more of such Cantonments, according as the local Government shall direct.

And may make general or special Regulations to provide for certain matters hereinafter mentioned.

XVIII. No Rule or Regulation made or altered under the last preceding Section shall have effect until the same shall have been confirmed by the Governor-General of India in Council. A copy of every such Rule and Regulation when so confirmed, in English and in the Vernacular language chiefly in use, shall be hung up in some conspicuous part of the Office of the Cantonment Magistrate, or in such other place as the local Government or the Commanding Officer may direct.

Regulations to be confirmed by Governor-General in Council.

XIX. The Rules and Regulations made under Section XVII. may provide—

1st.—For regulating, in cases in which the land within the limits of the Cantonment is the property of Government and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of

For what matters Regulations may provide.

* Bill No. 24 of 1870 proposes to repeal this Section.

such land, and under which compensation shall be given to persons occupying or using the land so resumed.

2nd.—For maintaining proper registers of immoveable property within the limits of the Cantonment, and for providing for the registration of transfers of such property.

3rd.—For regulating the manner in which houses within the limits of the Cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of Military Officers.

4th.—For regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the Cantonment, or for carrying out any Rules and Regulations passed under this Section, and the appointment of the necessary servants and establishments.

5th.—For the definition and prohibition of public nuisances.

6th.—For the maintenance generally of the Cantonment in a proper sanitary condition; for the prevention and cure of disease; for the management and regulation of the public roads, of conservancy, and drainage; for the regulation and inspection of public and private necessaries, urinals, cess-pools, drains and all places in which filth or rubbish in deposited; of slaughter houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations.

7th.—For inspecting and controlling houses of ill-fame and for preventing the spread of venereal disease.

8th.—For the supervision and regulation of public wells, tanks, springs, or other sources from which water is or may be made available for public use.

9th.—For the execution and promotion of works of public utility and convenience.

10th.—For the registration of deaths, and for making and recording observations and facts important for the public health and interests.

11th.—For the imposition of penalties on persons convicted of the breach of any Rule or Regulation made under Section XVII., and for declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such Rules and Regulations, and the manner in which the investigation shall be conducted. Provided that no penalty so imposed shall exceed a fine of fifty Rupees, or imprisonment for eight days with or without labor.

Trial of breaches of Regulations.

XX. Breaches of any Rule or Regulation made under Section XVII. shall be triable by the the Cantonment Magistrate when there is such an Officer: but the local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate. The Magistrate of the District shall have no control over the Cantonment Magistrate, or over any Assistant Cantonment Magistrate, or any other person invested with such powers as herein aforesaid.

Amount of fine imposed how to be levied.

XXI. In every case in which an offender is sentenced to a fine for the breach of any Rule or Regulation made under Section XVII., the amount may, in case of non-payment, be levied by distress and sale of any moveable property of the offender which may be found within the limits of the Cantonment.

Imprisonment in case of amount not being levied.

XXII. If no such property sufficient for the payment of the fine can be found, the offender shall be liable to be imprisoned without labor for any term not exceeding one month.

Place of such imprisonment.

XXIII. The imprisonment under Section XIX. or Section XXII. may be, if without labor, in the Civil Jail; and if with labor, in the Criminal Jail of the District.

Prosecutions, &c., under other Regulations, &c., not barred by this Act.

XXIV. Nothing in this Act nor in any Rule or Regulation made under Section XVII. shall prevent any person from being prosecuted under any other Regulation or Act for any offence punishable under this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

For protection of the health of the troops, Rules and Regulations made under 7th Cl. of Section XIX. may be extended beyond limits of Cantonments.

XXV. Whenever it shall appear necessary for the protection of the health of the troops in any Military Cantonment, it shall be lawful for the Governor-General of India in Council to extend, to any place outside the limits of such Military Cantonment, and in the vicinity of such Cantonment, all or any of the Rules and Regulations made for such Cantonment under Clause 7 of Section XIX., and to make any additional Rules and Regulations under the said Clause, and to define the limits around such Cantonment within which such Rules and Regulations or additional Rules and Regulations shall be in force.

How penalties may be imposed and enforced for breach of

XXVI. When such Rules and Regulations, with any additional Rules or Regulations made as above, shall be extended under the last preceding Section to any place outside the limits of such Cantonment, it shall be lawful for the Governor

General of India in Council to provide, in the manner described in Clause III of Section XIX., for the imposition of penalties for the breach of such Rules and Regulations, and for prescribing the manner in which, and the persons by whom, breaches of such Rules and Regulations shall be inquired into or be cognizable.

Rules and Regulations in extended limits.

XXVII. All Courts and Magistrates shall take judicial notice of all Rules and Regulations made under Section XVII. or Section XXV.

Courts, &c., to take judicial notice of Rules and Regulations made under this Act.

XXVIII. Whenever in any Military Cantonment Rules and Regulations have been made under Section XVII., so much of any Regulation or Act as may be held to empower the Commanding Officer to make local Regulations regarding matters other than Military shall cease to have any effect in such Cantonment, and all local Regulations for any Military Cantonment, which may have been made before the promulgation of the Rules and Regulations for such Cantonment made under the said Section XVII., shall cease to have any effect. Provided that nothing in this Section shall be held to interfere with any Military authority vested in the said Commanding Officer under the articles of War.

Effect of Rules, &c., made under Section XVII. of this Act in respect of Regulations, &c., previously in force.

Proviso.

XXIX. If within any Military Cantonment, or within any limits around such Cantonment prescribed by the local Government, any person not amenable to the articles of War, or any Sutler, or Camp-Follower, shall knowingly barter, sell, or supply, or offer or attempt to barter, sell, or supply, any spirituous liquor, wine, or intoxicating drug to, or for the use of, any European Soldier, or to or for the use of any European or Eurasian being a Camp-Follower or a Soldier's wife, without a written license from the Officer Commanding, or from some person having sufficient authority from the Officer Commanding to grant such license, the person so bartering, selling, or supplying, or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable on conviction to a fine not exceeding one hundred Rupees, or in the discretion of the Magistrate to imprisonment, with or without hard labor, for any period not exceeding three months, or, in lieu of such fine or imprisonment, to the punishment of whipping, as prescribed for offences under Section II. of Act VI. of 1864 (*to authorize the punishment of whipping in certain cases,*) subject to all the provisions of that Act.

Penalty for the unauthorized sale of spirits, &c., to certain persons in Cantonments.

XXX. If any person convicted of an offence under the last preceding Section shall be again convicted of an offence under that Section, any spirituous liquor, wine, or intoxicating drug within such Cantonment or limits, which at the time of the commission of such subsequent offence shall belong to or be in the possession of such person, shall, without further proof, be deemed to be in the possession of such person for the purpose of bsing supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

Spirits, &c., to be confiscated in certain cases.

XXXI. If any Camp-Follower or Military Pensioner, or the wife or the widow of any Soldier, Camp-Follower, or Military Pensioner shall, within such Cantonment or limits, remove, convey, or have, in his or her possession, any quantity of spirituous liquor or wine exceeding one seer or quart, without a permit to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to a fine not exceeding fifty Rupees, and for any subsequent offence to a fine not exceeding one hundred Rupees, or to imprisonment with or without hard labor, for any term not exceeding three calendar months: provided that nothing in this Section contained shall apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

Penalty on certain persons for having in their possession within Cantonments more than a certain quantity of spirits without a permit.

XXXII. If any person subject to the provisions of this Act shall be found committing any offence contrary to Section XXX. or Section XXXI. of this Act, any Police Officer may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other Officer having jurisdiction to punish the offender.

Arrest of persons offending against Section 30 or 31 and seizure of the liquor etc. in their possession.

XXXIII. In case of conviction for any offence under Section XXX. or Section XXXI. of this Act, the Cantonment Magistrate, or other Officer, may adjudge any liquor, wine, or intoxicating drug in respect of which the party shall be convicted, and any other spirituous liquor, wine or intoxicating drug which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same or any part thereof, to be confiscated; and such Magistrate may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the Officer who

Confiscation of intoxicating liquor, etc. in respect of which there may be a conviction, or which may be in possession of the party convicted.

shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.

Property seized under this Act may be detained until party charged with offence is convicted or acquitted.

How to be then disposed of.

XXXIV. Anything seized under Section XXXII. in respect of which any person shall be charged with an offence, may be ordered to be detained until the person in whose possession the same shall have been seized shall be convicted or acquitted of the offence charged. If the person shall be acquitted, any thing so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by the Cantonment Magistrate or other Officer to be confiscated, shall be restored: the remainder shall be dealt with as confiscated.

Saving of all articles sold or supplied for Medicinal purposes.

XXXV. The foregoing Sections shall not apply to the sale or supply of any article for medicinal purposes, by recognized Medical Practitioners, Chemists, or Druggists.

Act not to affect jurisdiction of Courts Martial, etc.

XXXVI. Nothing in this Act shall interfere with the jurisdiction of Courts Martial, or of Commanding Officers of Cantonments or of Regiments, Corps, or Detachments under Act XXIX. of 1861 (*to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army*), or under Act V. of 1863 (*to amend Act XXIX. of 1861*), or with the provisions of any Statute for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty in the East Indies, and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences. Provided that, when a Cantonment Magistrate or other Officer, not being the Commanding Officer, shall have been vested by the local Government with power within the limits of any Military Cantonment to dispose of cases under any Rule or Regulation made under Section XVII., it shall not be competent to the Commanding Officer to exercise the powers described in Article 84 of the said Act XXIX. of 1861 in respect of any case arising under such Rule or Regulation, when such Rules and Regulations have been passed for such Cantonment under Section XVII., and penalties shall have been laid down for their infringement. The said Rules and Regulations shall be held to be the Rules and Regulations mentioned in the said Article 84 of the said Act XXIX. of 1861, and so much of the said Article as declares the penalties which may be inflicted for breach of Cantonment Regulations, shall cease from that time to have any effect in such Cantonment.

Proviso.

XXXVII. Repealed by Act XIV. of 1870.

Place of operation of this Act.

XXXVIII. This Act shall, save as hereinafter is provided, extend only to the Presidency of Fort William in Bengal.

This Act may be extended by order of the Governor-General in Council to certain other places.

XXXIX. The provisions of this Act may be extended, by order of the Governor-General of India in Council, to any place under the immediate administration of the Government of India, and to any place in India but not in British India in which British Troops are cantoned.

To what places this Act may be extended by the Governments of Madras, Bombay, and the Punjab.

XL. The provisions of this Act may be extended, by order of the Governor of Madras in Council, or by order of the Governor of Bombay in Council, and by order of the Lieutenant-Governor of the Punjab, to any part of the territories subject to their respective Governments.

To what places this Act may be extended by the Government of Bengal, or of the North-Western Provinces.

XLI. The provisions of this Act may be extended, by order of the Lieutenant-Governor of Bengal, or by order of the Lieutenant-Governor of the North-Western Provinces, to any part of the territories under their respective Governments not within the Presidency of Fort William in Bengal,

Publication of Orders extending the operation of this Act.

XLII. Every order issued under Sections XXXIX., XL., or XLI. shall be published in the Official Gazette.

Authority to which commitments shall be made and appeals preferred, if Cantonment be not situate in any district in which there is any person exercising the powers of a Court of Session.

XLIII. If, in the Territories not subject to the general Regulations or in any part of India not subject to the British Government, any person be invested with the powers of a Cantonment Magistrate within the limits of any Cantonment situated in any district or place in which there is no person exercising the powers of a Court of Session, the Governor-General of India in Council may direct to what authority the commitments shall be made and by what authority the appeals from the sentences and orders passed by such Cantonment Magistrate shall be heard and determined, and such commitments and appeals shall be heard and determined by such authority in the same manner as if the commitments had been made, or the sentences or orders appealed from had been passed by a Magistrate within the jurisdiction of a Court of Session. The Governor-General of India in Council may also direct by what authority appeals from the sentences and orders passed in cases committed by such Cantonment Magistrate, shall be heard and determined; and such appeals shall be heard and determined by such last mentioned authority in like manner as if the sentences and orders appealed from had been passed by a Court of Session.

XLIV. If a Court of Small Causes shall be established under Section VI. in any Military Cantonment in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, the Governor-General of India in Council shall declare what authority shall exercise the powers vested in the Sudder Court by the provisions of the said Act XLII. of 1860.

In certain cases powers vested in the Sudder Court under Act XLII. of 1860 shall be exercised by such authority as the Governor-General in Council shall declare.

XLV. If any Military Cantonment in any part of India not subject to the British Government shall be declared by the Governor-General of India in Council to be a Sub-District for the purposes of Registration under Act XVI. of 1864, the Governor-General of India in Council shall declare what authority shall be deemed to be the District Register and the Registrar General, respectively, with reference to such Military Cantonment and the Deputy Registrar thereof.*

In certain cases, for purposes of Regulation under Act XVI. of 1864, the Government to declare what authorities to be deemed District Registrar and Registrar General.

XLVI. From the date on which any Cantonment Magistrate shall begin to exercise jurisdiction under this Act in any Cantonment in the Territories subject to the Government of Madras, or to the Government of Bombay, or to the Lieutenant-Governor of the Punjab, so much of the Regulations and Acts for the time being in force in such part of the said Territories as is in any way inconsistent with or repugnant to any of the provisions of this Act shall cease to have effect in such cantonment.

Regulations and Acts inconsistent with this Act, when to cease to have effect in Cantonments in Madras, Bombay, and the Punjab.

ACT No. XXIV. OF 1864.

(Received the assent of the Governor-General on the 8th April.)

1. *Rules relating to jurisdiction and procedure of Revenue Officers, &c., to be deemed valid from date of issue.*
2. *Rules relating to administration of Civil Justice to be deemed valid from date of issue until the coming into operation of this Act, and in part after such period.*
3. *Validity given to all decisions, &c., before the coming into operation of this Act.*
4. *Proceedings in Civil suits how to be regulated.*
5. *In what Courts suits shall be instituted.*
6. *Power of Commissioner as to suits instituted in any subordinate Court.*
7. *Trial of suits for immoveable property situate within the jurisdiction of different Courts.*
8. *Periods of appeal how to be reckoned.*
9. *Act XIV. of 1859 extended to certain Districts and Provinces.*
10. *Repealed.*

An Act relating to the Administration of certain Districts under the Government of the Lieutenant-Governor of the North-Western Provinces.

Preamble.

Whereas certain Rules for the administration of Civil Justice and for the superintendence of the settlement and of the realization of the Public Revenue and of matters relating to rent in the Districts of Jhansi, Jaloun, and Lullutpore, were made by the Lieutenant-Governor of the North-Western Provinces, and came into operation on the twenty-eight day of January and the seventh day of February 1862; and whereas the said Rules, so far as they relate to the administration of Civil Justice, were afterwards extended by an order of the Lieutenant-Governor of the North-Western Provinces to the Provinces of Kumaon and Gurhwal; and whereas it is expedient to prevent the validity of decisions, orders and proceedings passed or held under the said Rules being questioned only by reason that the said Rules were not made in accordance with the provisions of the Indian Council's Act, 1861: and whereas it is expedient to make provision for the administration of the Districts and Provinces aforesaid, and also of a tract of country in Dehra Dhoon in the North-Western Provinces known as Jounsar Bawur; it is enacted as follows:—

† I. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces relating to the jurisdiction and procedure of the Revenue

Rules relating to jurisdiction and procedure of Revenue Officers, etc., to be deemed valid from date of issue.

* Bill No. 24 of 1870 proposes to repeal this Section.

† See Act XVIII. 1867.

Officers, and for the superintendence of the settlement and of the realization of the Public Revenue, and of matters relating to rent, within the said Districts of Jhansi, Jaloun, and Lullutpore, shall be deemed valid for all purposes from the date on which such Rules were issued.

Rules relating to administration of Civil Justice to be deemed valid from date of issue until the coming into operation of this Act., and in part after such period.

II. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces for the administration of Civil Justice within the said Districts, and thereafter extended to the Provinces of Kumaon and Gurhwal as aforesaid, shall be deemed valid for all purposes from the date on which they are issued until this Act shall come into operation. So much of the said Rules as relates to the establishment of Courts of Civil Judicature, and provides for the trial of suits and appeals by Commissioners, Deputy Commissioners of Districts, Assistant Commissioners, Extra Assistant Commissioners, and Tehsilders, together with so much of the said Rules as relates to the periods of appeal decisions and orders made by such Courts, shall continue to be in force after this Act shall have come into operation. *

Validity given to all decisions, etc., before the coming into operation of this Act.

III. No decision, order or proceeding of any Court or Officer under any of the said Rules, made and extended as aforesaid by the Lieutenant-Governor of the North-Western Provinces, shall be questioned on the ground of such order or decision having been passed, or of such proceeding having been held, before the date fixed for this Act to come into operation.

Proceeding in Civil suits how to be regulated.

IV. Except as in this Act is otherwise provided, the proceedings in Civil suits of every description between party and party, brought in the said Courts of Civil Judicature, shall be regulated by the Code of Civil Procedure.

In what Courts suits shall be instituted.

V. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Power of Commissioner as to suits instituted in any subordinate Court.

VI. It shall be lawful for the Commissioner or for the Deputy Commissioner of a District to withdraw any suit instituted in any Court subordinate to the Court of such Commissioner or Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same.

Trial of suits for immoveable property situate within the jurisdiction of different Courts.

VII. If the suit be for land or other immoveable property situate within the local limits of the Jurisdiction of different Courts, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of the land, or other immoveable property in suit is situate; but in such case the Court in which the suit is brought shall apply to the Deputy Commissioner of the District if the suit is brought in any Court subordinate to the Deputy Commissioner, or to the Commissioner if the Court in which the suit is brought is the Court of a Deputy Commissioner, for authority to proceed with the same.

Periods of appeal how to be reckoned.

VIII. The periods of regular and special appeal prescribed in the Rules, which by Section II. of this Act are to continue in force after this Act shall have come into operation, shall be reckoned from and exclusive of the day on which the judgment appealed against shall have been pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeals are allowed by the Code of Civil Procedure, shall be presented within the same period as appeals from decrees.

Act XIV. of 1869 extended to certain Districts and Provinces.

IX. Act XIV. of 1859 (*to provide for the limitation of suits*) is hereby extended to the said Districts of Jhansi, Jaloun, and Lullutpore, and to the said Provinces of Kumaon and Gurhwal.† * * *

ACT No. XXVI. OF 1864.

(Received the assent of the Governor-General on the 14th April.)

1. Interpretation.

2. Courts held under Act IX. of 1850 may take cognizance of suits for sums not exceeding Rupees 1,000.

3. Such Courts may take cognizance of suits for sums exceeding Rs. 1,000 if the parties consent.

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* Repealed as regards Jhansi by Act XVIII. 1867.

† Bill No. 20 of 1870 proposes to repeal the words omitted from this Section and also Sections 10, 11, 12, 13, 14 and 15.

4. *Powers under Act VII. of 1847 extended to recovery of arrears of rent not exceeding Rs. 1,000 and the Calcutta Court of Small Causes to exercise such powers.*

5. *Provision of Section XCI., Act IX. of 1850 extended to tenements not exceeding in value Rupees 1,000.*

6. *Powers of Act IX. of 1850 and all rules, &c., made in pursuance thereof extended to demands under this Act.*

7. *In what cases questions to be reserved for the opinion of the High Court.*

8. *Security to be given in certain cases when question is reserved for the opinion of the High Court. Costs arising from reserving the question to be at the discretion of the High Court.*

9. *No costs in cases brought in the High Court when verdict is for less than a certain amount.*

10. *No costs to be allowed in suit in High Court against Officers of Court held under Act IX. of 1850, if verdict for no more than one thousand Rupees unless Judge shall certify.*

11. *Fees payable in the Courts of Small Causes in suits under this Act.*

12. *Local Government may, with sanction, appoint as many Judges as may be necessary.*

13. *Fees payable to Barristers &c., in suits tried under this Act.*

14. *One of the Judges appointed under Act IX. of 1850 to be styled First Judge; and to distribute business among the Judges.*

15. *Code of Civil Procedure may be extended to Small Cause Courts.*

16. *This Act to be read as part of Act IX. of 1850.*

An Act to extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras, and Bombay, and to provide for the appointment of an increased number of Judges of those Courts.

Preamble.

Whereas it is expedient to increase the limit of the jurisdiction of the Courts of Small Causes held under Act IX. of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay,*) and to increase the number of Judges of the said Courts : It is enacted as follows :—

Interpretation.

I. The words "Local Government" and "High Court," as used in this Act shall bear respectively the same meaning as the words "Governor in Council" and "Supreme Court," as used in the said Act IX. of 1850.

Courts held under Act IX. of 1850 may take cognizance of suits for sums not exceeding Rs. 1,000.

II. The jurisdiction of the Courts held or to be held under the said Act IX. of 1850 shall extend to the recovery of any debt, damage, or demand exceeding the sum of five hundred Rupees but not exceeding the sum of one thousand Rupees, and to all actions in respect thereof (except the several actions specified in the proviso in Section XXV. of the same Act), provided that the cause of action shall have arisen or the defendant at the time of bringing the action shall dwell or carry on business or personally work for gain within the local limits of the jurisdiction of the Court.

Such Courts may take cognizance of suits for sums exceeding Rs. 1,000 if the parties consent.

III. If both parties shall agree by a Memorandum signed by them or by their Attornies and filed with the Clerk of the Court of Small Causes, that the said Court shall have power to try any action (not included in the proviso in Section XXV. of Act IX. of 1850), in which the debt or damage claimed or value of the property in dispute, whether on balance of account or otherwise, shall exceed the sum of one thousand Rupees, then and in such case the said Court shall have jurisdiction to try such action.

Powers under Act VII of 1847 extended to recovery of arrears of rent not exceeding Rs. 1,000 and the Calcutta Court of Small Causes to exercise such powers.

IV. The powers and provisions of Act VII. of 1847 (*to regulate distresses for small rents in Calcutta*) shall be extended to the recovery of all arrears of rent not exceeding one thousand Rupees, and the Judges of the Calcutta Court of Small Causes under Act IX. of 1850 shall be empowered to exercise within their jurisdiction the extended powers of the said Act VII. of 1847 : and the said Act shall be construed as if, instead of Calcutta and the Settlement of Fort William in Bengal, the limits of the jurisdiction of the Court had been therein mentioned, and the Judges of the Calcutta Court of Small Causes under Act IX. of 1850 instead of the Commissoners of the Court therein mentioned, and the amount of one thousand Rupees instead of one hundred Rupees, and the forms contained in the Schedule annexed to the said Act VII. of 1847 shall be altered accordingly, and shall refer to Act IX. of 1850 and to this Act, instead of to Act VII. of 1847.

Provision of Section XCI, Act IX, of 1850 extended to tenements not exceeding in value Rs. 1,000.

V. The powers and provisions of Section XCI. of Act IX. of 1850 are hereby extended so as to apply to the case of any person who shall hold or occupy any house, land, or tenement of which the value or the rent payable in respect thereof does not exceed the rate of one thousand Rupees by the year, and the said Section XCI. of Act IX. of 1850 shall be read as if the words "five hundred" were omitted, and the words "one thousand" substituted for them.

Powers of Act IX. of 1850 and all rules, etc., made in pursuance thereof extended to demands under this Act.

VI. The several powers and provisions of the said Act IX. of 1850, and all rules, orders, and regulations which have been or may be made in pursuance of the said Act, shall extend to all debts, damages, and demands which may be sued for in the said Courts exceeding the sum of five hundred Rupees, and to all proceedings and Judgments for the recovery of the same, or ortherwise in relation thereto respectively, as fully and effectually, to all intents and purposes, as the same respectively are now or may be applicable to debts, damages, and demands within the present jurisdiction of the said Courts.

In what cases question to be reserved for opinion of the High Court.

VII. In any cause of an amount exceeding five hundred Rupees, the Judges of the said Courts of Small Causes shall reserve any question of law or equity or any question as to the admission or rejection of any evidence as to which they shall entertain any doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the High Court, and shall give judgment contingent upon the opinion of the said High Court, on a case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together and shall differ in opinion, the question on which they differ shall be so reserved.

Security to be given in certain cases when question is reserved for the opinion of the High Cout.

VIII. When judgment is given contingent upon the opinion of the High Court, the party against whom such judgment is given shall unless he be willing to submit to such judgment, forthwith give security to be approved by the Clerk of the Court, for the costs of the reference to the High Court and for the amount of the judgment; provided nevertheless that such security, so far as regards the amount of the judgment shall not be required in any case where the Judge of the Court of Small Causes who tried the suit shall have ordered the defendant to pay the amount of such judgment into the hands of the Clerk of the said Court, and the same shall have been paid accordingly; and the said High Court may either order a new trial on such terms as it thinks fit, or may order judgment to be entered for either party as the case may be, and may make such order with respect to the costs of reserving the question and stating the same for their opinion, and otherwise arising thereout or connected therewith, as such High Court may think proper. And all orders made by the High Court under this Section shall be final.

Costs arising from reserving the question to be at the discretion of the High Court.

No costs in cases brought in the High Court when verdict is for less than a certain amount.

IX. If any action shall after the passing of this Act be commenced in the High Court, for any cause other than those specified in Section C. of Act IX. of 1850, for which a summons might have been taken out from a Court held under the said Act IX. of 1850 or under this Act, and in which such Court would have had jurisdiction, and if a verdict shall be found for the plaintiff for a sum less than one thousand Rupees if the said action is founded on contract, or less than three hundred Rupees if it is founded no wrong, the plaintiff shall have judgment to recover such sum only and no costs, and if a verdict shall not be found for the plaintiff, the defendant shall be entitled to his costs as between Attorney and client, unless in either case the Judge who shall try the case shall certify that, by reason of the difficulty, novelty, or general importance of the case, or of some erroneous course of decisions in like cases in the Court of Small Cause, the action was fit to be brought in the High Court.

No costs to be allowed in suit in High Court held under Act XI. of 1859, if verdict for no more than one th usand Rupees unless Judge shall certify.

X. If any person shall bring any suit in the High Court in respect of any grievance committed by the clerk, Bailiff, or Officer of any Court held under Act IX. of 1850 or under this Act, or under color or pretence of the process of the said Court, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of one thousand Rupees, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court that the ocion was fit to be brought in the High Court.

Fees payable in the Courts of Small Cause in suits under this Act

XI. There shall be payable in the Court of Small Causes at Calcutta, Madras, and Bombay respectively, in every cause of an amount to which jurisdiction is given to the said Court by this Act, the fees set forth in the Schedule hereto annexed, besides the sum of two annas in each Rupee of the amount sued for, so far as such amount does not exceed five hundred Rupees, and one anna in the Rupees so far as such amount exceeds five hundred Rupees, which fee shall be paid over to the same account as that to which the fees payable under Section XIX. of Act IX. of 1850 are paid over.

Local Government may, with sanction, appoint as many Judges as may be necessary.

XII. Whereas, by Section VIII. of the said Act IX. of 1850, provision is made for the appointment of so many persons as may be necessary, not exceeding three, to be Judges of the said Courts of Small Causes respectively, it is hereby enacted that it shall be lawful for the local Government, with the previous sanction of the Governor-General of India in Council, to apoint as many persons as may be necessary to be Judges of the said Courts respectively.

Fees payable to Barristers, etc., in suits tried under this Act.

XIII. The fees to be taken by Barristers-at law and Attornies practising in the said Courts in cases brought within the jurisdiction given by this Act, shall be as follows:—An Attorney shall be entitled to have or recover a sum not exceeding fifty-one Rupees for his fees and costs, and in no case shall any fee exceeding eighty-five Rupees be allowed for employing a Barrister as Counsel in the cause. The

expense of employing a Barrister or an Attorney, or both a Barrister and an Attorney, either by plaintiff or defendant, shall not be allowed as costs, unless by order of the Judge, and the Judges of the said Court shall determine in what cases such expenses shall be so allowed.

XIV. Of the Judges appointed under Section VIII. of the said Act IX. of 1850, the one who is a Barrister-at Law or Advocate of one of the High Courts of India or of the Court of Session of Scotland shall be styled the First Judge. The First Judge shall make such arrangements as he shall think fit, with regard to the distribution of the suits and of the general business of the Court among the various Judges thereof: and he may vary such arrangements from time to time.

One of the Judges appointed under Act IX. of 1850 to be styled First Judge and to distribute business among the Judges.

XV. The Local Government may, with the sanction of the Governor-General of India in Council, declare that the whole or any part or parts of the Code of Civil Procedure shall be applicable to any Court held under Act IX. of 1850 or under this Act: and the procedure prescribed in the said Code or the part or parts thereof so declared to be applicable shall thereupon be the procedure followed in such Court: Provided that no right of appeal or review shall in any case be given by any declaration made under this Section.

Code of Civil Procedure may be extended to Small Cause Courts.

XVI. This Act and the said Act IX. of 1850 shall be read and construed as one Act, as if the several provisions in the said Act contained, not inconsistent with the provisions of this Act, were repealed and re-enacted in this Act.

This Act to be read as part of Act IX. of 1850.

SCHEDULE OF FEES.

Sums not above.	Every Summons or Subpœna.		Warrant.	
Rs.	Rs.	As.	Rs.	As.
600	2	4	6	0
700	2	8	7	0
800	2	12		0
900	3	0	9	0
1,000	3	4	10	0

ACT No. XXVIII. OF 1864.

(Received the assent of the Governor-General on the 28th November.)

1. Provisions of Act XXI. of 1856 and of Act XXIII. of 1860 may be extended to the Punjab.

2. Powers under said Acts in what Courts and Officer to be vested.

3. Levy of Duties under said Acts, under orders of Punjab Government, legalized.

An Act to provide for the extension of Act XXI. of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal,) to the Provinces under the control of the Lieutenant-Governor of the Punjab.

Preamble.

Whereas it is expedient to empower the Governor-General of India in Council to extend the provisions of Act XXI. of 1856 (*to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal,*) and of Act XXIII. of 1860 (*to amend Act* XXI. *of* 1856), to any Province or place under the control of the Lieutenant-Governor of the Punjab; It is enacted as follows:—

Provisions of Act XXI. of 1856 and of Act XXIII. of 1860 may be extended to the Punjab.

I. It shall be lawful for the Governor-General of India in Council, by notification in the Gazette of India, to extend all or any of the provisions of the said Act XXI. of 1856 relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and of the said Act XXIII. of 1860, to

any of the Provinces or any part or parts thereof, under the control of the Lieutenant-Governor of the Punjab.

Powers under said Acts in what Courts and Officers to be vested.

II. The powers to be exercised under any of the provisions of the said Acts shall be vested in such Courts and Officers as the said Lieutenant-Governor may with the sanction of the Governor-General in Council appoint for the purpose.

Levy of Duties under said Acts, under orders of Punjab Government legalized.

III. No proceedings at law shall be taken against any Officer, for any act done or omitted on or after the eighteenth day of April 1864 by virtue of any order of the Government of the Punjab heretofore made, directing the levy of any such duty as is authorized by the said Acts XXI. of 1856 and XXXIII. of 1860 to be levied.

ACT NO. I. OF 1865.

(Received the assent of the Governor-General on the 7th January.)

1. Governor-General in Council may extend to certain Non-Regulation Provinces certain Regulations and Acts.

2. Lieutenant-Governors of North-Western Provinces and Punjab may extend to certain Non-Regulation Provinces certain Regulations and Acts.

3. Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

4. Repeal of Rules inconsistent with this Act.

5. Short title.

An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.

Preamble.

Whereas it is expedient to authorize the Governor-General of India in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab, to extend to the Non-Regulation Provinces under the immediate administration of the Government of India or under the Governments of the Lieutenant-Governors of the North-Western Provinces and the Punjab respectively, certain Acts and Regulations in force at the time of the passing of this Act in parts of British India subject to the General Regulations ; It is enacted as follows :—

Governor-General in Council may extend to certain Non-Regulation Provinces certain Regulations and Acts.

I. From and after the passing of this Act, it shall be lawful for the Governor-General of India in Council, from time to time, by notification in the Gazette of India, to extend to any Non-Regulation Province under the immediate administration of the Government of India the operation of any Act or Regulation, or of any portion of any Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Lieutenant Governor of North-Western Provinces and Punjab may extend to certain Non-Regulation Provinces certain Regulations and Acts.

II. From and after the passing of this Act, it shall be lawful for the Lieutenant-Governor of the North-Western Provinces as to the Non-Regulation Provinces under his government, and for the Lieutenant-Governor of the Punjab as to the Territories under his government, by notification in the Official Gazette, to extend to such Provinces and Territories, respectively, the operation of any Act or Regulation of the Government of India, or of any portion of any such Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

III. Whenever the operation of any Act or Regulation or of any portion of any Act or Regulation shall be extended under either of the last two preceding Sections, the Governor-General of India in Council or the Lieutenant-Governor making such extension, may direct by whom any powers or duties incident to the provisions applied under such Section shall be exercised or performed, and may make any order which shall be deemed requisite for carrying such provisions into operation.

Repeal of Rules inconsistent with the Act.

IV. From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to the enactment whose operation shall have been so extended, shall cease to have effect in such Territories.

Short title.

V. This Act shall be called "The Acts and Regulations' Extension Act 1865."

ACT NO. III. OF 1865.

(Received the assent of the Governor-General on the 14th February.)

1. Short Title.

2. Interpretation Clause. "Common Carrier." "Person." Number.

3. Carriers not to be liable for loss of certain goods above Rupees 100 in value, unless delivered as such.

4. For carrying such, payment may be required at rates fixed by the Carrier. Proviso.

5. Person entitled to recover as to property lost or damaged may also recover any money paid for its carriage.

6. In respect of what property liability of Carrier not limited or affected by public notice. Carriers, with certain exceptions, may limit liablity by special contract.

7. Liability of owner of railroad or tramroad constructed under Act XXII. of 1863, not limited by special contract. In what case owner of railroad or tramroad shall answer for damage or loss.

8. Common Carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

9. Plaintiffs, in suits against Common Carriers for loss, damage, or non-delivery, not required to prove any negligence or criminal Act.

10. Saving of provisions of Sections 9, 10 and 11 of Act XVIII. of 1854.

An Act relating to the rights and liabilities of Common Carriers.

Preamble.

Whereas it is expedient not only to enable Common Carriers to limit their liability for loss of or damage to property delivered to them to be carried, but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows:—

Short Title.

I. This Act may be cited as "The Carriers' Act, 1865."

Interpretation Clause.

II. In this Act, unless there be something repugnant in the subject or context—

"Common Carrier."

"Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately.

"Person."

"Person" includes any association or body of persons, whether incorporated or not.

Number.

Words in the singular number include the plural, and words in the plural include the singular.

Carriers not to be liable for loss of certain goods above Rs. 100 in value, unless delivered as such.

III. No Common Carrier shall be liable for loss of or damage to property delivered to him to be carried, exceeding in value one hundred Rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such Carrier or his agent the value and description thereof.

For carrying such, payment may be required at rates fixed by the Carrier.

Proviso.

IV. Every such Carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred Rupees and of the description aforesaid, at such rate of charge as he may fix: Provided that, to entitle such Carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country where, in he carries on such business.

Person entitled to recover as to property lost or damaged may also recover any money paid for its carriage.

V. In case of the loss of or damage to property exceeding in value one hundred Rupees and of the description aforesaid, delivered to such Carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such Carrier in consideration of such risk as aforesaid.

In respect of what property liability of Carrier not limited or affected by public notice.

Carries, with certain exceptions, may limit liability by special contract.

VI. The liability of any Common Carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such Carrier, not being the owner of a railroad or tramroad constructed under the provisions of Act XXII. of 1863 *(to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken)* may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

Liability of owner of railroad or tramroad constructed under Act XXII. of 1863, not limited by special contract.

VII. The liability of the owner of any railroad or tramroad constructed under the provisions of the said Act XXII. of 1863, for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss

or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

In what case owner of railroad or tramroad shall answer for damage or loss.

VIII. Notwithstanding anything hereinbefore contained, every Common Carrier shall be liable to the owner for loss of or damage to any property delivered to such Carrier to be carried where such loss or damage shall have arisen from the negligence or criminal act of the Carrier or any of his agents or servants.

Common Carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

IX. In any suit brought against a Common Carrier for the loss, damage, or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage, or non-delivery was owing to the negligence or criminal act of the Carrier, his servants or agents.

Plaintiffs, in suits against Common Carriers for loss, damage, or non-delivery, not required to prove any negligence or criminal act.

X. Nothing in this Act shall affect the provisions contained in Sections IX. X., and XI. of Act No. XVIII. of 1854 (*relating to Railways in India*).

Saving of provisions of Sections 9, 10. and 11 of Act XVIII. of 1854.

SCHEDULE.

Gold and Silver Coin.
Gold and Silver in a manufactured or unmanufactured state.
Precious Stones and Pearls.
Jewellery.
Time Pieces of any description.
Trinkets.
Bills and Hundis.
Currency Notes of the Government of India. or Notes of any Banks, or Securities for payment of money, English or Foreign.
Stamps and Stamped paper.
Maps, Prints, and Works of Art.
Writings.
Title Deeds.
Gold or Silver Plate or Plated articles.
Glass.
China.
Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
Shawls and Lace.
Cloths and tissues embroidered with the precious metals or of which such metals form part.
Articles of ivory, ebony, or sandal-wood.

ACT No. V. OF 1865.

(*Received the assent of the Governor-General on the 23rd February.*)

PERLIMINARY.

1. *Short Title.*
2. *Commencement and extent of Act.*
3. *Act XXV. of 1864 repealed.*
4. *Interpretation Clause.* "*Church of England.*" "*Church of Scotland.*" "*Church of Rome.*" "*Roman Catholic.*" "*Church.*" "*Minor.* "*Native Christians.*" "*Section.*" "*Month,*" *and* "*Year.*" "*Local Government.*"

PART I.

AS TO THE PERSONS BY WHOM MARRIAGE MAY BE SOLEMNIZED.

5. *Marriage between Christians to be solemnized only under this Act.*
6. *By whom to be solemnized.*
7. *Declaration and certificate no longer required.*
8. *Licenses to solemnize marriage by whom to be granted.*

9. Marriages if solemnized otherwise than according to this Act to be void.
10. Marriages solemnized before first May 1865 by certain persons to be deemed valid.

PART II.

AS TO THE MODE SOLEMNIZING MARRIAGES UNDER THIS ACT.

11. Notice of intended marriage. Proviso.
12. Publication of such notice.
13. Notice of intended marriages in private dwelling.
14. Notice when one of the persons is a minor.
15. Publication of such notice.
16. Appointment of Senior Marriage Registrar.
17. Certificate of notice given and declaration made, to be issued. Proviso.
18. In case of minority, certificate not to issue until 14 days after receipt of notice.
19. Declaration to be made before issue of certificate.
20. Consent of parent or guardian when necessary.
21. What persons may prohibit issue of certificate by notice.
22. Procedure of Minister on receipt of such notice.
23. Proceedings before issue of certificate in the case of Native Christians.
24. Form of certificate.
25. After issue of certificate, marriage may be solemnized.
26. Certificate to be void if marriage be not solemnized within two months.
27. Proof of marriage in accordance with the provisions of Part I of this Act.

PART III.

AS TO THE TIME FOR SOLEMNIZING.

28. Hours between which marriages to be solemnized. Proviso.

PART IV.

AS TO THE REGISTRATION OF MARIAGES IN INDIA.

29. Marriages, with certain exceptions, to be registered as herein prescribed
30. Registration of marriages solemnized by Clergymen of the Church of England.
31. Quarterly Returns to Archdeaconry.
32. Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.
33. Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.
34. What marriages to be entered in a Register Book and also in a certificate.
35. Such entries to be attested and signed.
36. Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.
37. Copies of such certificates to be entered and numbered.
38 Registrar to add number of entry to the certificate, and send same to Government.
39. Custody and disposal of Register Book of marriages solemnized under Part V. of this Act.
40. Transmission of certificates of certain marriages to Secretary of State for India.
41. Corrections of errors.
42. Searches may be made and copies of certificates given.
43. Appropriation of fees.
44. Certified copy of entry in Marriage Register, &c., to be evidence of marriage without further proof.
45. These provisions not to apply to Registrars, &c., of Marriages solemnized by Marriage Registrars.
46. Registrars to be Christians and may be appointed ex-officio.

PART V.

AS TO THE MARRIAGE OF NATIVE CHRISTIANS.

47. Licensing of persons to grant certificates of marriage between Native Christians.
48. Certificate may be given without previous notice of marriage. Conditions.

49. On marriage (the conditions having been fulfilled) licensed person to grant a certificate thereof.
50. Marriages performed under the provisions of Sec. 48 to be valid.
51. Register Book to be kept.
52. Searches in Register Book to be allowed.
53. Part V. not to apply to Roman Catholics.

PART VI.

AS TO PENALTIES.

54. Punishment for false oath, declaration, notice, or certificate, for procuring marriage.
55. Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.
56. Punishment for solemnizing a marriage without due authority.
57. Punishment for solemnizing a marriage except between 6 A. M. and 7 P. M. or without witness.
58. Section 57 not to apply to marriages solemnized under licenses.
59. Punishment for solemnizing a marriage, when either party is a minor, within a certain time after notice.
60. Punishment for issuing certificates, or solemnizing marriages, without publication of notice, &c.
61. Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland, or Rome, solemnizing marriages without publication of notices, &c.
62. Punishment for unlicensed person pretending to grant certificate of marriage under Part V.
63. Punishment for destroying or falsifying Register Book.
64. Jurisdiction to try persons for offences punishable under this Act.
65. Code of Criminal Procedure applicable to offences under this Act.
66. Supreme Court of Straits Settlement to try and punish offences under this Act.

An Act to provide for the solemnization of Marriages in India of persons professing the Christian Religion.

Whereas it is expedient to provide further for the solemnization of Marriages in India of persons professing the Christian Religion; It is enacted as follows:— Preamble.

PRELIMINARY.

I. This Act may be cited as "The Indian Marriage Act, 1865." Short Title.

II. This Act shall extend to all the Territories that are or shall become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," and shall commence and come into operation on the first day of May 1865. Commencement and extent of Act.

III. From and after the commencement of this Act, Act No. XXV. of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) is repealed, except as to the recovery and application of any penalty for any offences which shall have been committed before such commencement. Act XXV. of 1864 repealed.

IV. In this Act, unless there is something repugnant in the subject or context— Interpretation Clause.

"Church of England" and "Anglican" mean and apply to the United Church of England and Ireland as by law established. "Church of England.

"Church of Rome" means the Church of Scotland as by law established. "Church of Scotland."

"Church of Rome" and "Roman Catholic" mean and apply to the Church, which regards the Pope of Rome as its spiritual head. "Church of Rome." "Roman Catholic."

"Church" shall include any Chapel or other building generally used for public Christian worship. "Church."

"Minor" means a person who has not completed the age of twenty-one years. "Minor."

"Native Christians" includes the Christian descendants of Native of India converted to Christianity, as well as such converts. "Native Christians."

"Section" means a Section of this Act. "Section."

"Month" and "Year" respectively mean month and year reckoned according to the British calendar. "Month," and "Year."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part. "Local Government."

PART I

As to the persons by whom Marriages may be Solemnized.

Marriage between Christians to be solemnized only under this Act.

V. From and after the commencement of this Act no marriage between persons, one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

VI. Marriages may be solemnized in India—

1.—By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of which such person is a Minister.

2.—By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of Scotland.

3.—By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V. of 1852 (*for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty intituled an Act for Marriages in India*) of the Governor-General of India in Council.

4.—By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

5.—By any person who, with respect to marriages between Native Christians, shall have received, under the provisions of Part V. of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

VII. From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III. cap. 84, and Act XXIV. of 1860. (*for the solemnization of marriages in India by ordinary Minister of the Church of Scotland*) of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

VIII. From and after the commencement of this Act the Governor-General of India in Council, the Governors of Madras and Bombay in Council, the Governors of the Settlement of Prince of Wales, Island, Singapore, and Malacca, and the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the Territories under the immediate administration of such Governor-General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriages solemnized otherwise than according to this Act to be void.

IX. From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of Sections V. and VI. shall be null and void.

Marriages solemnized before 1st May 1865 by certain persons to be deemed valid.

X. All marriages which shall have been solemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council shall, if not otherwise invalid, be deemed valid to all intents and purposes.

PART II.

As to the Mode of Solemnizing Marriages under this Act.

Notice of intended marriage.

XI. In every case of intended marriage between persons, one or both of whom shall profess the Christian Religion, otherwise than—

1. Under the provisions of the said Statue 14 and 15 Vic., cap. 40, or of the said Act V. of 1852 : or

2.—By a Clergyman who has received episcopal ordination, according to the rites, rules, ceremonies, and customs of that Church to which he belongs : or

3.—By a Clergyman of the Church of Scotland, according to the rites, rules, ceremonies, and customs of that Church : or

4.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V. of this Act—

One of the persons intending marriage shall give notice in writing, according to the form contained in the Schedule A to this Act annexed or to the like effect, to the Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized. Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church

Proviso.

no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the same Bishop may sanction.

Publication of such notice.

XII. The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the same notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

Notice of intended marriage in private dwelling.

XIII. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion on receiving the notice prescribed in Section XI. shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice when one of the persons is a minor.

XIV. When one of the persons intending marriage (not being a widow or widower) is a minor, every such Minister as aforesaid who shall receive such notice and who shall not forthwith return it to the person delivering the same under Section XII., shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice.

XV. The Marriage Registrar of the District, on receiving any such notice, shall affix the same to some conspicuous place in his own Office.

Appointment of Senior Marriage Registrar.

XVI. If there be more Marriage Registrars than one in any District, the Local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, as aforesaid.

Certificate of notice given and declaration made, to be issued.

XVII. Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made : Provided that no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

Proviso.

In case of minority, certificate not to issue until 14 days after receipt of notice.

XVIII. When by such declaration it appears or when it is otherwise known to such Minister of Religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Declarations to be made before issue of certificate.

XIX. Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any imprisonment of kindred or affinity or other lawful hindrance to the said marriage, and when either or both of the parties, not being a widower or widow, is or are a minor or minors, that the consent of a person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

Consent of parent or guardian when necessary.

XX. The father, if living, of any minor not being a widower or widow, or if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, shall have authority to give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

What persons may prohibit issue of certificate by notice.

XXI. Every person whose consent to a marriage is required as aforesaid is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person so authorized, with his name and place of abode, and his or her position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure of Minister on receipt of such notice.

XXII. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

Proceedings before issue of certificate in the case of Native Christians.

XXIII. When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under Section XVII., such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and if not, shall translate or cause to be translated such notice or certificate to such Native Christian into his language, or into some language which he understands.

Form of certificate.

XXIV. The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

After issue of certificate, marriage may be solemnized.

XXV. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: Provided that the marriage be solemnized in the presence of at least two witnesses.

Certificate to be void if marriage be not solemnized within two months.

XXVI. Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

Proof of marriage in accordance with the provisions of Part I of this Act.

XXVII. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I. of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married, or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

PART III.

As to the Time for solemnizing Marriages.

Hours between which marriages to be solemnized.

XXVIII. Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening:

Proviso.

Provided that this Section shall not apply to a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction: Provided also that this Section shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six the morning, when he shall have received a general or special license in that behalf from the Roman Catholic of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

PART IV.

As to the Registration of Marriages in India.

Marriages, with certain exceptions, to be registered as herein prescribed.

XXIX. All marriages solemnized in India, from and after the commencement of this Act, between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V. of 1852, shall be registered in the manner hereinafter prescribed: Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Registration of marriages solemnized by Clergymen of the Church of England.

XXX. Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

Quarterly returns to Archdeaconry.

XXXI. Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject, or within the limits of which such

Station or District shall be situated, Such quarterly Returns shall contain all the entries of marriages contained in the said Register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July, to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Local Government.

Registration and Returns of marriages solemnised by Clergymen of the Church of Rome.

XXXII. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall be solemnized; and such person shall forward quarterly to the Secretary to the Local Government, Returns of the entries of all marriages registered by him during the three months next preceding.

Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

XXXIII. Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the farm prescribed in Section XXX. for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the territory subject to the Local Government, Returns similar to those prescribed in Section XXXI, for Clergymen of the Church of England of all marriages solemnized by him.

What marriages to be entered in a Register Book and also in a certificate.

XXXIV. After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of Englad nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be attested and signed.

XXXV. The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar copied and transmitted to Government.

XXXVI. The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage to the marriage Registrar of the District in which the marriage was solemnized, or, if there be more marriage Registrars than one, to the Senior Marriage Registrar, who shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he sall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the local Government, together with the certificates from his own Marriage Register Book which he shall trasmit under Section XII. of the said Statute 14 and 15 Vic., cap. 40, but distinct therefrom.

Copies of such certificates to be entered and numbered.

XXXVII. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry to the certificate, and send same to Government.

XXXVIII. The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end of every month transmit the same to the Secretary to the Local Government.

Custody and disposal of Register Book of marriages solemnized under Part V. of this Act.

XXXIX. The person solemnizing any such marriage as is provided for in Part V. of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said District, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said District; and the person having the control of the book at the time when it shall be filled, shall send the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars

than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government to be kept by him with the records of his Office.

Transmission of certificates of certain marriages to Secretary of State for India.

XL. The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor-General of India in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths, and Marriages.

Corrections of errors.

XLI. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary to the Local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

XLII. Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to a Local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same, on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

XLIII. All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a Marriage, not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be evidence of marriage without further proof.

XLIV. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers, &c., of marriages solemnized by Marriage Registrars.

XLV. Nothing contained in this Part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic, cap. 40, or the said Act V. of 1852.

Registrars to be Christians and may be appointed *ex officio*.

XLVI. Every Marriage Registrar hereafter appointed under the provisions of the said Act V. of 1852 shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

PART V.

AS TO THE MARRIAGE OF NATIVE CHRISTIANS.

Licensing of persons to grant certificates of marriage between Native Christians.

XLVII. And whereas it is expedient to make provisions for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V. of 1852 are found not be suitable, it is further enacted that it shall be lawful for the Local Government or the Chief Commissioner of any Province, to issue a license to any person being a Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Any such license may be revoked by the Government or Chief Commissioner by whom it was granted: and every such grant or revocation shall be notified in the Official Gazette.

Certificate may be given without previous notice of marriage.

XLVIII. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or

that any certificate should have been issued of any notice having been given under the provisions of the said Act V. of 1852 or otherwise; and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise :—

Conditions.

(1.) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years :

(2.) The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity :

(3.) Neither of the persons intending to be married shall have a wife or husband still living :

(4.) In the presence of the person so licensed and of at least two credible witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God and in the name of our Lord Jesus Christ, do take thee, C. D., to be my lawful wedded wife(*or husband*)," or words to the like effect :

(5.) Such declaration shall be made between the hours of six in the morning and seven in the evening.

On marriage (the conditions having been fulfilled) licensed person to grant a certificate thereof.

XLIX. When, in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage, on the application of either of the parties to such marriage, on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received, in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidenee to the contrary shall be received in any such suit.

Marriages performed under the provisions of Sec. 48 to be valid.

L. All marriages performed between Native Christians as aforesaid, in accordance with the provisions of Section XLVIII., shall be valid.

Register Book to be kept.

LI. A Register Book of all marriages of which certificates shall be granted under Section XLVIII. shall be kept, by the person granting such certificates, in his own vernacular language. Such Register Book shall be kept according to such form as the local Government or Chief Commissioner shall from time to time prescribe, and true extracts therefrom, duly authenticated, shall be deposited at such places and at such times as the Local Government or Chief Commissioner shall direct.

Searches in the Register Book to be allowed.

LII. Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book under the last preceeding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a copy certified under his hand of any entry or entries in the same, on the payment of the fees hereinafter mentioned, that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Part V. not to apply to Roman Catholics.

LIII. This Part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V. of the said Act No. XXV. of 1864.

PART VI.

AS TO PENALTIES.

Punishment for false oath, declaration, notice, or certificate, for procuring Marriage.

LIV. Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V. of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in Section CXCIII. of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

LV. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in Section CCV. of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for solemnizing a marriage without due authority

LVI. Whoever, not being authorized under Section VI. to solemnize a marriage shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall profess the Christian Religion, shall be punished with imprisonment of either des-

cription, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or, in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or, if the offender be an European or American, to penal servitude according to the provisions of Act XXIV. of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such convicts.*

Punishment for solemnizing a marriage except between 6 A. M. and 7 P. M. or without witnesses.

LVII. Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Section 57 not to apply to marriages solemnized under licenses.

LVIII. The provisions of the last preceding Section shall not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he shall have received the general or special license in that behalf mentioned in Section XXVIII.

Punishment for solemnizing a marriage, when either party is a minor, within a certain time after notice.

LIX. Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage when one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V. of this Act.

Punishment for issuing certificates, or solemnizing marriages, without publication of notice, &c.

LX. Whoever, being a Marriage Registrar appointed under the provisions of the said Act V. of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act, without publishing or affixing in some conspicuous place the notice of such marriage as directed by such Act; or after expiration of two months after a certificate in respect of a marriage shall have been issued by him shall solemnize such marriage, or shall, without an order of a competent Court authorising him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Senior Marriage Registrar of the District, if there be more Marriage Registrars of the District than one, and if he himself be not the Senior Marriage Registrar, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland, or Rome, solemnizing marriages without publication of notices, &c.

LXI. Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies, and customs of that Church, or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies, and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II. of this Act, or after the expiration of two months after the certificate shall have been issed by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined

in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment for unlicensed person pretending to grant certificate of marriage under Part V.

LXII. Whoever, not being licensed to grant a certificate of marriage under Part V. of this Act, shall grant such certificate intending thereby to make it appear that he is so licensed. shall be punished with imprisonment of either description, as defined in the India Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for destroying or falsifying Register Books.

LXIII. Whoever shall wilfully destroy or injure or cause to be destroyed or injured any such Register Book, or any part thereof, or any such authenticated extract therefrom as aforesaid, or shall wilfully insert or cause to be inserted any false entry in any such Register Book or authenticated extract, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to seven years, and shall also be liable to fine.

Jurisdiction to try persons for offences punishable under this Act.

LXIV. Persons tried for offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the same Code: Provided that no European British subject shall be liable to be tried for any offence punishable under this Act except before a Judge of the High Court. In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original Civil jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held, according to the rules by which the Criminal Procedure of the High Court may from time to time be regulated.

Code of Criminal Procedure applicable to offences under this Act.

LXV. Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act: Provided that a summons shall ordinarily issue in the first instance, and that all offences punishable under this Act shall be bailable.

Supreme Court of Straits' Settlement to try and punish offences under this Act.

LXVI. The Supreme Court of Judicature in the Settlement of Prince of Wales' Island, Singapore, and Malacca shall have power to try offences punishable under this Act and committed within the limits of such Settlement. The charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court shall from time to time be regulated. The penalties (if any) imposed on persons charged as aforesaid, shall correspond as nearly as may be with the penalties which might have been imposed on such persons had the Indian Penal Code been then in force in the said Settlement.

SCHEDULE A—(*See Section* 11.

NOTICE OF MARRIAGE.

To *the Reverend John Brown*, Minister of the *Free Church of Scotland at Calcutta.*

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say),

Names.	Condition.	Rank or Profession	Age.	Dwelling-Place.	Length of Residence.	Church Chapel, or place of worship in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	*23 days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hasting Street.*	*More than a month.*		

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-five.*

(*Signed*) *JAMES SMITH.*

(The *Italics* in this Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District).

SCHEDULE B—(*See Section* 24.)

REGISTRAR'S CERTIFICATE.

I the Reverend John Brown, Minister of the Free Church of Scotland at Calcutta in Bengal, do hereby certify, that, on the *sixth* day of *July* 1865, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith*, one of the parties (that is to say),

Names.	Condition.	Rank or Profession.	Age.	Dwelling-Place.	Length of Residence.	Church, Chapel, or place of worship in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	*16, Clive Street.*	*23 days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hastings' Street.*	*More than a month.*		

and that the declaration required by Section XIX. of "The Indian Marriage Act, 1865" has been duly made by the said (*James Smith.*)

Date of notice entered *sixth July 1865.* Date of certificate given *twentieth July 1865.* } The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my Hand, this *twentieth* day of *July one thousand eight hundred and sixty-five.*

(*Signed*) *JOHN BROWN,*
Minister of the Free Church of Scotland

This Certificate will be void unless the marriage is solemnized on or before the *twentieth* day of *September 1865.*

(The *Italics* in the Schedule are to be filled up as the case may be and the blank division thereof is only to be filled up when one of the parties lives in another District.)

SCHEDULE C.—*See Section 30.*

Form of Register of Marriages.

Quarterly Returns
of
MARRIAGES
for
The Archdeaconry of ... { *Calcutta,* *Madras,* *Bombay,*

I, Registrar of the Archdeaconry { *Calcutta,* *Madras,* *Bombay,*

do hereby certify, that the annexed are correct copies of the original and Official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* *Madras,* *Bombay,* } as made and transmitted to me for the Quarter commencing

the *first* day of *October* ending the *thirty-first* day of *December*, in the Year of Our Lord *One Thousand Eight Hundred and Sixty-five.*

[*Signature of Registrar*]

Registrar of the Archdeaconry of { *Calcutta, Madras, Bombay.*

MARRIAGES solemnized at { *Allahabad, Barrackpore, Bareilly, Calcutta*, &c., &c.

When Married.			Names of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.	By Banns or License.	Signatures of the Parties.	Signatures of two or more Witnesses present.	Signature by whom married.
Year.	Month.	Day.	Christian.	Surname.									

SCHEDULE D—*(See Section 34.)*

MARRIAGE REGISTER BOOK.

Number.	When Married.			Name of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.
	Day.	Month.	Year.	Christian.	Surname.					
1	26*th*	*July*	1865.	*James* ...	*White* ...	26 *years* ...	*Widower*...	*Carpenter*	*Agra* ...	*William White.*
				Martha ...	*Duncan* ...	17 *years* ...	*Spinster* ...	.....	*Agra* ...	*John Duncan.*

Married in the *Free Church of Scotland Church, Agra.*

JOHN YOUNG, Minister of the Church of Scotland.

This marriage was solemnized between us { *James White,* / *Martha Duncan.* } in the presence of us { *John Smith,* / *John Green.* }

SCHEDULE D—*(Continued.)*

CERTIFICATE OF MARRIAGE.

Number.	When Married.			Names of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.
	Day.	Month.	Year.	Christian.	Surname.					
1	*26th*	*July.*	1865.	*James* ...	*White* ...	*26 years* ...	*Widower*...	*Carpenter*	*Agra* ...	*William White.*
				Martha ...	*Duncan* ...	*17 years* ...	*Spinster* ...	.....	*Agra* ...	*John Duncan.*

Marrried in the *Free Church of Scotland Church, Agra.*

JOHN YOUNG, Minister of the Free Church of Scotland.

This marriage was solemnized between us { *James White,* / *Martha Duncan.* } in the presence of us { *John Smith,* / *John Green.* }

ACT No. VII. OF 1865.

(Received the assent of the Governor-General on the 24th February.)

1. Interpretation Clause. "Government Forests." "Magistrate." "Local Government."
2. Supreme and Local Governments may render certain lands subject to the provisions of this Act.
3. Local Governments may make Rules for management and preservation of Forests, and for regulating the conduct of persons employed on them.
4. What may be provided for by Rules made in pursuance of this Act.
5. Power to Local Government to prescribe punishments for infringement of Rules.
6. Rules when to have the force of law.
7. Confiscation in case of infringement of Rules.
8. Arrest and seizure in case of infringement of Rules.
9. Procedure in case of arrest.
10. The causing or procuring an act to be done to be punishable in the same manner as the doing of the act.
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17. Period within which cargoes to be brought.
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An Act to give effect to Rules for the management and preservation of Government Forests.

Preamble.

Whereas it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows:—

Interpretation Clause.

I. In this Act, unless there be something repugnant in the subject or context—

"Government Forests."

"Government Forests" shall mean such land covered with trees, brushwood, or jungle, as shall be declared in accordance with the second Section of this Act to be subject to its provisions.

"Magistrate."

"Magistrate" shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters, by whatever designation such Officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a Subordinate Magistrate as defined in the Code of Criminal Procedure, with a view to the exercise by him of such powers under this Act.

"Local Government.

And in every part of British India in which this Act operates, "Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Governor-General in Council to exercise the powers of a Local Government under this Act.

Supreme and Local Governments may render certain lands subject to the provisions of this Act.

II. The Governor-General of India in Council within the Provinces under his immediate administration, and the Local-Governments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act, such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification; Provided that such notification shall not abridge or effect any existing rights of individuals or communities.

Local Governments may make Rules for management and preservation of Forests, and for regulating the conduct of persons employed on them.

III. For the management and preservation of any Government Forests or any part thereof in the Territores under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

IV. Rules made in pursuance of this Act may provide for the following matters:—

First.—The preservation of all growing trees, shrubs, and plants within Government Forests or of certain kinds only by prohibiting the marking, girdling ,fell-

ing, and lopping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephants' tusks, horns, skins, and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of, or otherwise interfering with, streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government,

Third,—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohibiting the converting or cutting into pieces or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the lawful owner of such timber, or not acting on behalf of the owner; by regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner, so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial limits of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling, or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act and the collecting of Forest dues or revenues,

Power to Local Government to prescribe punishments for infringement of Rules.

V. In cases when the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishment for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred Rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in Section LXVII. of the Indian Penal Code.

Rules when to have the force of law.

VI. Such Rules, when confirmed by the Governor-General in Council and published in the Official Gazette, shall have the force of law.

Confiscation in case of infringement of Rules.

VII. All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attempted to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

Arrest and seizure in case of infringement of Rules.

VIII. Any police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act, may arrest any person infringing any of such Rules and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

Procedure in case of arrest.

IX. Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

The causing or procuring an act to be done to be punishable in the same manner as the doing of the act.

X. Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

XI. When any timber or other property shall be seized as liable to confiscation under this Act, any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Procedure in respect of property seized as liable to confiscation.

XII. Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five Hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Penalty for vexatious seizures and arrests.

XIII. All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Enforcement of confiscations and penalties under Rules.

XIV. When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

Property on confiscation to vest in Her Majesty.

XV. When any confiscation or penalty shall be adjudged under this Act, the Local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

Remission of penalties.

XVI. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Limitation of suits under this Act.

XVII. No charge of an offence under this Act shall be instituded except within six months after the Commission of such offence.

Period within which charges to be brought.

XVIII. This Act shall extend to all the Territories under the immediate administration of the Government of India, and under the Governments of Bengal, the North-Western Provinces, and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

Extent of Act.

XIX. This Act shall come into operation on the first day of May 1865, and may be cited as „The Government Forests Act, 1865."

Commencement of Act. Short Title.

ACT No. VIII. OF 1865.

(Received the assent of the Governor-General on the 24th February.)

An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction.

Bill No. 22 of 1870 proposes to repeal this Act.

ACT No. IX OF 1865.

(Received the assent of the Governor-General on the 7th March.)

1. *Addition to 10th Section of Act XVI. of 1864.*
2. *Addition to Section XIII. of the said Act.*

3. Act XVI. of 1864, Section 15, repealed.

4. Registration of instruments affecting immoveable property situate in more than one District.

5. Recognition of powers of attorney executed by persons absent from India, without exact observance of provisions of Section 28 of Act XVI. of 1864.

6. Act XVI. of 1864, Section 40, repealed.

7. Abstracts of instruments affecting immoveable property registered by Deputy Registrars, to be forwarded through District Registrars to General Register Office.

8. Appointment of Deputy Registrar General to perform duties of Registrar General under Sections 26 and 27 of Act XVI. of 1864 during his absence on duty.

9. This Act to be construed with Act XVI. of 1864.

An Act to amend Act No. XVI. of 1864 (*to provide for the Registration of Assurances*).

Preamble.

Whereas it is expedient to amend Act No. XVI. of 1864 (*to provide for the Registration of Assurances*); It is enacted as follows:—

Addition to 10th Section of Act XVI. of 1864.

I. The second sentence of Section X. of Act No. XVI. of 1864 shall be read as if the words "or any other person whom the Registrar General may think proper to appoint" were inserted after the words "Civil jurisdiction of the District."

Addition to Section XIII. of the said Act.

II. Section XIII. of the said Act shall be read as if the following proviso formed part thereof: Provided also that the provisions of this Section shall not apply to any instrument relating to shares in a Joint Stock Company notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property.

Act XVI. of 1864, Section 25, repealed.

III. Section XXV. Act No. XVI. of 1864 is hereby repealed.

Registration of instruments affecting immoveable property situate in more than one District.

IV. Every instrument affecting immoveable property situate in more Districts than one may be presented for registration to the District Registrar of any District in which any part of the property is situate, and it shall be the duty of such Registrar to register the instrument and to forward a copy thereof endorsed with an attestation stating the date on which it was registered and its number in his Register Book to the District Registrar of every District in which any other part of such property is situate, as well as to the Deputy Registrars subordinate to himself within the limits of whose jurisdiction any part of the property is situate. The District Registrar on receiving the copy shall forward a copy of the same and of the endorsement on the instrument to the Deputy Registrars subordinate to him within the limits of whose jurisdiction any part of the property is situate. Every District Registrar and Deputy Registrar receiving such copy as above, shall register the same in the same manner as if the instrument had been presented to him in the first instance for registration.

Recognition of powers of attorney executed by persons absent from India, without exact observance of provisions of Section 28 of Act XVI. of 1864.

V. Every power of attorney not duly executed or attested in compliance with the terms of Section XXVIII. of Act XVI. of 1864 shall, at any time within three months after the passing of this Act (but not afterwards), be deemed to be a power duly executed and attested within the meaning of the same Section, if the Registrar General, or in his absence the Deputy Registrar General, after making such enquiry as he shall think fit, shall have certified upon such power of attorney that he is satisfied with the execution thereof, and that, in his opinion, it should be taken as a power duly executed and attested as aforesaid: Provided that this Section shall not apply to any case in which the person who executed the power of attorney shall be still in India.

Act XVI. of 1864, Section 40, repealed.

VI. Section XL. of Act No. XVI. of 1864 is hereby repealed.

Abstracts of instruments affecting immoveable property registered by Deputy Registrars, to be forwarded through District Registrars to General Register Office.

VII. An abstract of every original instrument affecting immoveable property registered in the office of any Deputy Registrar shall, with an endorsement showing the date on which it was registered and its number in the Register Book of such Deputy Registrar, be forwarded in duplicate, within seven days from such date, to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own office, and enter it in a Book corresponding with the Book No. 1, 2, 3, or 4 as described in Section LVI. of the said Act XVI. of 1864.

Appointment of Deputy Registrar General to perform duties of Registrar General under Sections 26 and 27 of Act XVI. of 1864 during his absence on duty.

VIII. During the absence on duty of the Registrar General from the place where the General Register Office is established, it shall be lawful for him to apoint the District Registrar of such place, or, with the sanction of the Local Government, such other person as he shall think fit, to perform the duties of the Registrar General under Sections XXVI. and XXVII. of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar or other person so appointed as aforesaid shall be styled the Deputy

Registrar General, and may, in registering any instrument undr the said Section XXVI., use the Seal of the Registrar General.

IX. This Act shall be read and taken as part of the said Act No. XVI. of 1864.

This Act to be construed with Act XVI. of 1864.

ACT No. X. OF 1865.

(Received the assent of the Governor-General on the 16th March.)

THE INDIAN SUCCESSION ACT.

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An Act to amend and define the Law of Intestate and Testamentary Succession in British India.

Preamble.

Whereas it is expedient to amend and define the rules of law applicable to Intestate and Testamentary Succession in British India; It is enacted as follows:—

PART I.

PRELIMINARY.

Short Title.

I. This Act may be cited as "The Indian Succession Act, 1865."

This Act to constitute the law of British India in cases of Intestate or testamentary Succession.

II. Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of Intestate or Testamentary Succession.

Interpretation Clause.

"Number."
"Gender."

III. In this Act, unless there be something repugnant in the subject or context—

Words importing the singular number include the plural: words importing the plural number include the singular; and words importing the male sex include females.

"Person" includes any Company or Association, or body of persons, whether incorporated or not. "Person."

"Year" and "Month" respectively mean a year and month reckoned according to the British Calendar. "Year." "Month."

"Immoveable property" includes land, incorporeal tenements and things attached to the earth, or permanently fastened to anything which is attached to the earth. "Immoveable property."

"Moveable property" means property of every description except immoveable property. "Moveable property."

"Province" includes any division of British India having a Court of the last resort. "Province."

"British India" means the Territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., Cap. 106 *(An Act for the better Government of India)* other than the Settlement of Prince of Wales' Island, Singapore, and Malacca. "British India."

"District Judge" means the Judge of a principal Civil Court of original jurisdiction. "District Judge."

"Minor" means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person. "Minor." "Minority."

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death. "Will."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the Will. "Codicil."

"Probate" means the copy of a Will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator. "Probate."

"Executor" means a person to whom the execution of the last Will of a deceased person is, by the testator's appointment, confided. "Executor."

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor. "Administrator."

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part; and "High Court" shall mean the highest Civil Court of Appeal therein. "Local Government." "High Court."

IV. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried. Interests and powers not lost nor acquired by marriage.

PART II.

OF DOMICILE.

V. Succession to the immoveable property in India of a person deceased is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is, regulated by the law of the country in which he had his domicile at the time of his death. Law regulating succession to a deceased person's immoveable and moveable estate respectively.

Illustrations.

(*a*) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable, and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(*b*) A, an Englishman having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

VI. A person can only have one domicile for the purpose of succession to his moveable property. One domicile only affects succession to moveables.

VII. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled or if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death. Domicile of origin of person of legitimate birth.

Illustration.

At the time of the birth of A, his father, was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

VIII. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled. Domicile of origin of illegitimate child.

IX. The domicile of origin prevails until a new domicile has been acquired. Continuance of domicile of origin.

X. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin. Acquisition of new domicile.

Explanation.—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's Civil or Military Servic e, or in the exercise of any profession or calling.

Illustrations.

(*a*) A, whose domicile of origin is in England, proceeds to British India, where he settles as a Barrister or a Merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(*b*) A, whose domicile is in England, goes to Austria and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(*c*) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of the period. He does not acquire a domicile in British India.

(*d*) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(*e*) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(*f*) A, whose domicile is in the French Settlement of Chandernagore. is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(*g*) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

Special mode of acquiring domicile in British India.

XI. Any person may acquire a domicile in British India by making and depositing in some Office in British India (to be fixed by the Local Government), a declaration in writing under his hand of his desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

Domicile not acquired by residence merely as the representative of a foreign Government, or by residence with him as part of his family or as a servant.

XII. A person who is appointed by the Government of one country to be its ambassador, consul, or other representative in another contry, does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

XIII. A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

XIV The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by a woman on marriage.

XV. By marriage a woman acqurires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

XVI. The wife's domicile during the marriage follows the domicile of her husband.

Exception.—The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile.

XVII. Except in the case above provided for, a person cannot during minority acquire a new domicile.

Lunatic's acquisition of new domicile.

XVIII. An insane person cannot acpuire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

XIX. If a man dies leaving moveable property in British India; in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

PART III.

OF CONSANGUINITY.

Kindred or consanguinity.

XX. Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

Lineal consanguinity.

XXI. Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line. Every generation constitutes a degree, either ascending

or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

Collateral consanguinity.

XXII. Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock, and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to the deceased.

XXIII. For the purpose of succession, there is no distinction between those who are related to a person deceased through his father and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half-blood; nor between those who were actually born in his life-time and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing degrees of kindred.

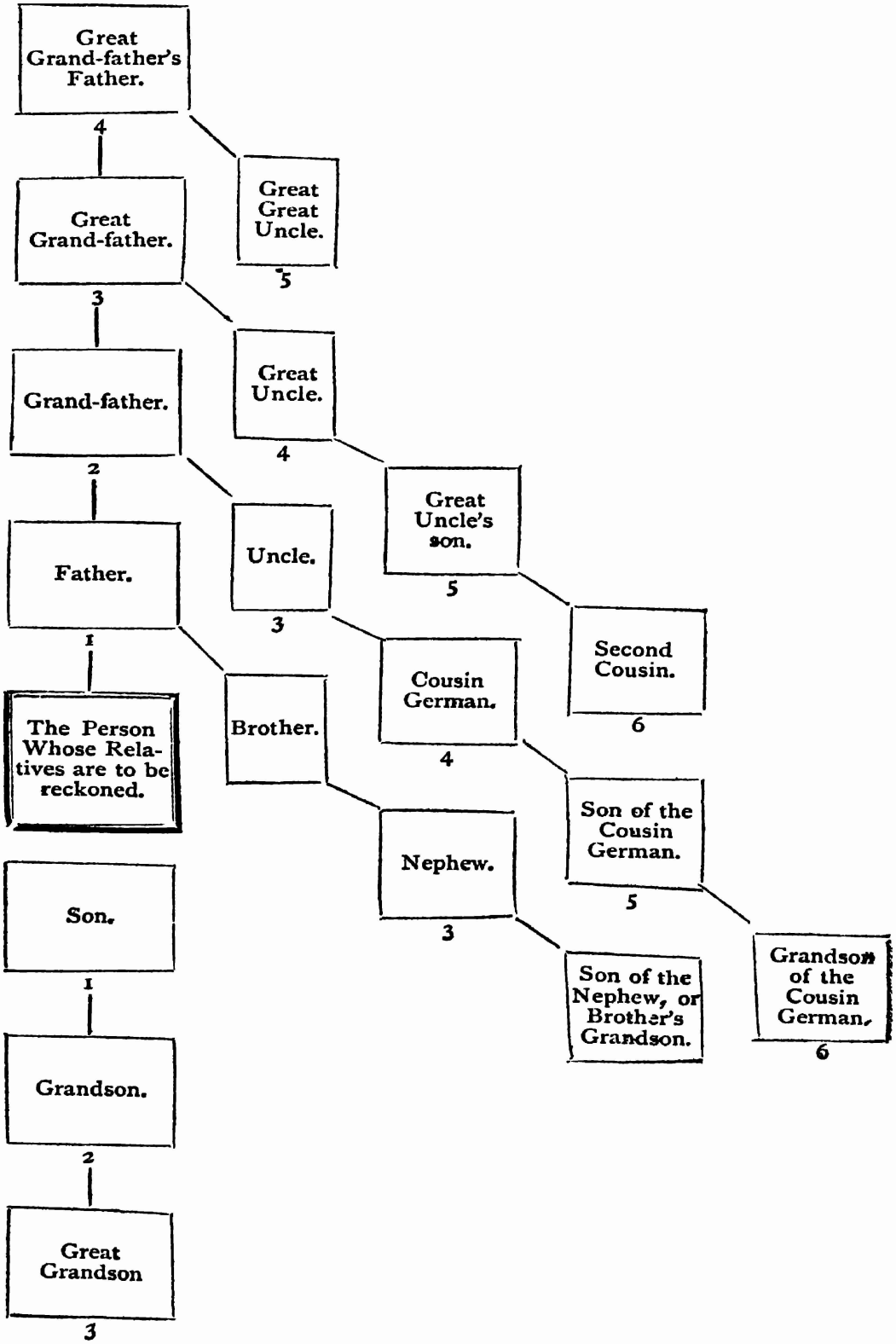
XXIV. In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor the grandfather; and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, that is, a great-nephew and a cousin-german, are in equal degree, being each four degrees removed.

A grandson of a cousin-german is in the same degree as the grandson of a great-uncle, for they are both in the sixth degree of kindred.

TABLE OF CONSANGUINITY.



PART IV.

OF INTESTACY.

XXV. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

As to what property a deceased person is considered to have died intestate.

Illustrations.

(*a.*) A has left no Will. He has died intestate in respect of the whole of his property.

(*b.*) A has left a will, whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*c.*) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*d.*) A has bequeathed 1,000*l.* to B, and 1,000*l.* to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2.000*l.* and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000*l.*

XXVI. Ruch property devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

Devolution of such property.

Explanation--The widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share for her husband's estate.

XXVII. Where the intestate has left a widow, if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

XXVIII. Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained: and if he has left none who are of kindred to him, it shall go to the Crown.

Where the intestate has left no widow, and where he has left no kindred.

PART V.

OF THE DISTRIBUTION OF AN INTESTATE'S PROPERTY.

(*a.*) *Where he has left lineal descendants.*

XXIX. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:—

Rules of distribution.

XXX. Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

Where the intestate has left a child or children only.

XXXI. Where the intestate has not left surviving him any child, but has left a grandchild or grand-children, and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild, if there be only one, or shall be equally divided among all his surviving grandchildren.

Where the intestate has left no child, but a grandchild or grand children.

Illustrations.

(*a.*) A has three children, and no more; John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren shall have one-ninth.

(*b.*) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

(*c.*) A has two children, and no more; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies, leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and such posthumous child.

XXXII. In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where the intestate has left only great-grand children, or lineal descendants in a remoter degree.

XXXIII. If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him,

Where the intestate leaves lineal descendants not all in the same degree of kindred to him and those through whom the

more remote descend are dead.

leaving lineal descendants who survived him; and one of such shares shall be allotted to each of the lineal decendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have beeen entitled to respectively if such parent or parents had survived the intestate.

Illustrations.

(*a.*) A had three children, John, Mary, and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(*b.*) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild; and the remaining one-ninth is equally divided between the two great-grandchildren.

(*c.*) A has three children, John, Mary, and Henry, John dies leaving four children, and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry; one-third to Mary's child; and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(b) Where the intestate has left no lineal descendants.

Distribution where the intestate has left no lineal descendants.

XXXIV. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows:

Where intestate's father is living.

XXXV. If the intestate's father be living, he shall succeed to the property.

Where intestate's father is dead but his mother, brother, and sister are living.

XXXVI. If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

Illustration.

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother, but not of his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half blood takes one-fourth.

Where intestate's father is dead and his mother, a brother or sister, and children of any deceased brother or sister are living.

XXXVII. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's life-time are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A the intestate leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half blood, who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each take one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

Where intestate's father is dead and his mother and the children of any deceased brother or sister are living.

XXXVIII. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A the intestate leaves no brother or sister, but leaves his mother and one child of a deceased sister Mary; and two children of a deceased brother George. The mother takes one-third; the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

XXXIX. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where the intestate has left neither lineal

XL. Where the intestate has left neither lineal descendant nor father nor mother, the property is divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if

more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

descendant nor father nor mother.

XLI. If the intestate left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree kindred to him.

Where intestate has left neither lineal descendant, brother, nor sister.

Illustrations.

(*a*) A, the intestate, has left a grand-father and grand-mother, and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(*b*) A, the intestate, has left a great-grandfather or great grand-mother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(*c*) A, the intestate, left a great-grandfather, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(*d*) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

XLII. Where a distributive share in the property of a person who has died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.

Children's advancements not to be brought into hotch-pot.

PART VI.

OF THE EFFECT OF MARRIAGE AND MARRIAGE SETTLEMENTS ON PROPERTY.

XLIII. The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.

Rights of a widower and of a widow respectively.

XLIV. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

No rights to property not comprised in an antenuptial settlement, to be acquired by marriage between a person domiciled and a person not domiciled in British India.

XLV. The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

Settlement of minor's property in contemplation of marriage.

PART VII.

OF WILLS AND CODICILS.

XLVI. Every person of sound mind and not a minor may dispose of his property by Will.

Persons capable of making Wills.

Explanation 1.—A married woman may dispose by Will of any property which she could alienate by her own act during her life.—

Explanation 2.—Persons who are deaf, or dumb, or blind are not thereby incapacitated for making a Will if they are able to know what they do by it.

Explanation 3.—One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

Explanation 4.—No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

Illustrations.

(*a*) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favor it would be proper that he should make his Will. A cannot make a valid Will.

(*b*) A executes an instrument purporting to be his Will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid Will.

(*c*) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes his Will. This is a valid Will.

XLVII. A father, whatever his age may be, may by Will appoint a guardian or guardians for his child during minority.

Testamentary Guardian.

Will obtained by fraud, coercion, or importunity.

XLVIII. A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Illustrations.

(*a*) A falsely, and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make a Will in his, A's favor; such Will has been obtained by fraud, and is invalid.

(*b*) A, by fraud and deception, prevails upon the testator to bequeath a legacy to him. The bequest is void.

(*c*) A, being a prisoner by lawful authority, makes his Will. The Will is not invalid by reason of the imprisonment.

(*d*) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge, unless he makes a bequest in favor of C. B. in consequence makes a bequest in favor of C. The bequest is void, the making of it having been caused by coercion.

(*e*) A being of sufficient intellect, if undisturbed by the influence of others, to make a Will, yet being so much under the control of B. that he is not a free agent, makes a Will dictated by B. It appears that he would not have executed the Will but for fear of B. The Will is invalid.

(*f*) A being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a Will of a certain purport, and does so merely to purchase peace, and in submission to B. The Will is invalid.

(*g*) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a Will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his Will in the manner reccommended by B. The Will is not rendered invalid by the intercession and persuasion of B.

(*h*) A with a view to obtaining a legacy from B, pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his Will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

A Will may be revoked or altered.

XLIX. A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

PART VIII.

Of the Execution of Unprivileged Wills.

Execution of unprivileged Wills.

L. Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his Will according to the following rules :—

First.—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

Second.—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

Third.—The Will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Incorporation of papers by reference.

LI. If a testator, in a Will or Codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the Will or Codicil in which it is referred to.

PART IX.

Of Privileged Wills.

Privileged Will.

LII. Any soldier, being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a Will made as is mentioned in the fifty-third Section. Such Wills are called privileged Wills.

Illustrations.

(*a*) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged Will.

(*b*) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and being at sea can make a privileged Will.

(*c*) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged Will.

(*d*) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged Will.

(e) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged Will.

(f) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged Will.

Making and execution of privileged Wills.

LIII. Privileged Wills may be in writing, or may be made by word of mouth. The execution of them shall be governed by the following rules

First.—The Will may be written wholly by the testator, with his own hand. In such case it need not be signed nor attested.

Second.—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Third.—If the instrument purporting to be a Will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his Will, if it be shown that it was written by the testator's directions, or that he recognized it as his Will. If it appear on the face of the instrument that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

Fourth.—If the soldier or mariner shall have written instructions for the preparation of his Will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his Will.

Fifth.—If the soldier or mariner shall, in the presence of two witnesses, have given verbal instructions for the preparation of his Will, and they shall have been reduced into writing in his life-time, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his Will, although they may not have been reduced into writing in his presence, nor read over to him.

Sixth.—Such soldier or mariner as aforesaid may make a Will by word of mouth by declaring his intentions before two witnesses present at the same time.

Seventh.—A Will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged Will.

PART X.

OF THE ATTESTATION, REVOCATION, ALTERATION, AND REVIVAL OF WILLS.

Effect of gift to attesting witness.

LIV. A Will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband: but the bequest or appointment, shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Explanation.—A legatee under a Will does not lose his legacy by attesting a Codicil which confirms the Will.

Witness not disqualified by interest nor by being executor.

LV. No person, by reason of interest in or of his being an executor of a Will, is disqualified as a witness to prove the execution of the Will or to prove the validity or invalidity thereof.

Revocation of Will by testator's marriage.

LVI. Every will shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Power of appointment defined.

Explanation.—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

Revocation of unprivileged Will or Codicil.

LVII. No unprivileged Will or Codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another Will or Codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged Will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Illustrations.

(a) A has made an unprivileged Will; afterwards A makes another unprivileged Will which purports to revoke the first. This is a revocation.

(b) A has made an unprivileged Will. Afterwards, A being entitled to make a privileged Will, makes a privileged Will, which purports to revoke his unprivileged Will. This is a revocation.

Effect of any obliteration, or interlineation, or alteration in an unprivileged Will.

LVIII. No obliteration, interlineation, or other alteration made in any unprivileged Will after the execution thereof, shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as herein-

before is required for the execution of the Will; save that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witness be made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

Revocation of privileged Will or Codicil.

LIX. A privileged Will or Codicil may be revoked by the testator, by an unprivileged Will or Codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged Will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Explanation.—In order to the revocation of a privileged Will or Codicil, by an act accompanied with such formalities as would be sufficient to give validity to a privileged Will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged Will.

Revival of unprivileged Will.

LX. No unprivileged Will or Codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contraray shall be shown by the Will or Codicil.

PART XI.

OF THE CONSTRUCTION OF WILL.

Wording of Will.

LXI. It is not necessary that any technical words or terms of art shall be used in a Will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

Enquiries to determine questions as to object or subject of Will.

LXII. For the purpose of determining questions as to what person or what property is denoted by any words used in a Will, a Court must inquire into every material fact relating to the persons who claim to be interested under such Will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Illustrations.

(*a*) A, by his Will, bequeaths 1,000 rupees to his eldest son, or to his youngest grandchild or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the Will applies.

(*b*) A by his Will, leaves to B "his estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estates of the testator's is called Black Acre.

(*c*) A, by his Will, leaves to B "the estate which he purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Misnomer or misdescription of object.

LXIII. Where the words used in the Will to designate or describe a legatee or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Illustrations.

(*a*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother, named John, who has no son named Thomas, but has a second son whose name is William. Willam shall have the legacy.

(*b*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(*c*) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(*d*) The testator gives his residuary estate to be divided among "his seven children," and proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the other.

(*e*) The testator having six grandchildren, makes a bequest to "his six grandchildren," and proceeding to mention them by their Christian names mentions, one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(*f*) The testator bequeaths "1,000 rupees to each of the three children of A." At the date of the Will, A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 rupees.

When words may be supplied.

LXIV. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

Illustration.

The testator gives a legacy of "five hundred" to his daughter A, and a legacy of "five hundred rupees" to his daughter B. A shall take a legacy of five hundred rupees.

Rejection of erroneous particulars in description of subject.

LXV. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Illustrations.

(a) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(b) The testator bequeaths to A "his zamíndárí of Rampore." He had an estate at Rampore, but it was a taluk and not a zamíndárí. The taluk passes by this bequest.

When part of description may not be rejected as erroneous.

LXVI. If the Will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

Explanation.—In judging whether a case falls within the meaning of this Section, any words which would be liable to rejection under Section, LXV. are to be considered as struck out of the Will.

Illustrations.

(a) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L as were in the occupation of X.

(b) A bequeaths to B, "his marsh lands lying in L, and in the occupation of X comprising 1,000 bígahs of land." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the Will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

Extrinsic evidence admissible in case of latent ambiguity.

LXVII. Where the words of the Will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Illustrations.

(a) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering the description in the Will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(b) A, by his Will, leaves to "B his estate called Sultanpur Khurd." It turns out that he had two estates called Sultanpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

LXVIII. Where there is an ambiguity or deficiency on the face of the Will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Illustrations.

(a) A man has an aunt Caroline and cousin Mary, and has no aunt of the name of Mary. By his Will he bequeaths 1,000 rupees to "his aunt Caroline" and 1,000 rupees to "his cousin Mary," and afterwards bequeaths 2,000 rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the Will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under Section LXXVI.

(b) A bequeaths 1,000 rupees to , leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(c) A bequeaths to B rupees, or "his estate of ." Evidence is not admissible to show what sum or what estate the testator intended to insert.

Meaning to be collected from entire Will.

LXIX. The meaning of any clause in a Will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a Codicil is to be considered as part of the Will.

Illustrations.

(a) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it

appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(b) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his Will bequeath Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B. and all the rest of my estate to A."

When words may be understood in a restricted sense, and when in a sense, wider than usual.

LXX. General words may be understood in a restricted sense where it may be collected from the Will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the Will that the testator meant to use them in such wider sense.

Illustrations.

(a) A testator gives to A" his farm in the occupation of B" and to C" all his marsh land in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(b) The testator (a sailor on ship board, bequeathed to his mother his gold ring, buttons, and chest of clothes, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed, the testator's share in a house does not pass to A under this bequest.

(c) A, by his Will, bequeathed to B all his household furniture, plate linen, china, books, pictures, and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

Where a clause is open to two constructions, that which has some effect is to be preferred.

LXXI. Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

No part of Will to be rejected if reasonable construction can be put on it.

LXXII. No part of a Will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

Interpretation of words repeated in different parts of Will.

LXXIII. If the same words occur in different parts of the same Will, they must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

Testator's intent to be effectuated as far

LXXIV. The intention of the testator is not to be set aside because it can not take effect to the full extent, but effect is to be given to it as far as possible.

Illustration.

The testator by a Will made on his death-bed bequeathed all his property to C D for life and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under Section C V., but it shall take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

LXXV. Where two clauses or gifts in a Will are irreconcileable, so that they can not possibly stand together, the last shall prevail.

Illustrations.

(a) The testator by the first clause of his will leaves his estate of Ramnagar "to A," and by the last clause of his Will leaves it "to B and not to A." B shall have it.

(b) If a man at the commencement of his Will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B; the latter disposition shall prevail.

Will &c., void for uncertainty.

LXXVI. A Will or bequest not expressive of any definite intention is void for uncertainty.

Illustration.

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a Schedule," and no Schedule is found; or "I bequeath 'money,' 'wheat,' 'oil,' or the like," without saying how much, this is void.

Words shall refer to property answering that description at testator's death.

LXXVII. The description contained in a Will, of property the subject of gift, shall, unless a contrary intention appear by the Will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Power executed by general bequest.

LXXVIII. Unless a contrary intention shall appear by the Will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power.

LXXIX. Where property is bequeathed to or for the benefit of such of certain objects as a specified person shall appoint, or for the benefit of certain objects in such proportions as a specified person shall appoint; and the Will does not provide for the event of no appointment being made; if the power given by the Will be not exercised, the property belongs to all the objects of the power in equal shares.

Implied gift to the object of a power in default of appointment.

Illustration.

A, by his Will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

LXXX. Where a bequest is made to the "heirs," or "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest of kin," or "next of kin," of a particular person, without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Bequest to "heir," &c., of a particular person without qualifying terms.

Illustrations.

(*a*) A leaves his property "to his own nearest relation." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(*b*) A bequeaths 10,000 rupees "to B for his life; and after the death of B, to his own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(*c*) leaves his property to B; but if B dies before him, to B's next of kin: B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(*d*) A leaves 10,000 rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

LXXXI. Where a bequest is made to the "representatives," or "legal representatives;" or "personal representatives," or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it.

Bequest to "representatives," &c., of a particular person.

Illustration.

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus B shall pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

LXXXII. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the Will that only a restricted interest was intended for him.

Bequest without words of limitation.

LXXXIII. Where property is bequeathed to a person, with a bequest in the alternative to another person or to a class of persons;—if a contrary intention does not appear by the Will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

Bequest in the alternative.

Illustrations.

(*a*) A bequest is made to A or to B. A survives the testator. B takes nothing.

(*b*) A bequest is made to A or to B. A dies after the date of the Will, and before the testator. The legacy goes to B.

(*c*) A bequest is made to A or to B. A is dead at the date of the Will. The legacy goes to B.

(*d*) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(*e*) Property is bequeathed to A or his nearest of kin A dies in the life-time of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(*f*) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's life-time. Upon A's death the bequest to the heirs of B takes effect.

(*g*) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's life-time. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to a bequest to a person

LXXXIV. Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the Will.

Illustrations.

(*a*) A bequest is made –
to A and his children,
to A and his children by his present wife,
to A and his heirs,
to A and the heirs of his body,
to A and the heirs male of his body,
to A and the heirs female of his body,
to A and his issue,
to A and his family,
to A and his descendants,
to A and his representatives,
to A and his personal representatives,
to A, his executors, and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(*b*) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(*c*) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

Bequest to a class of persons under a general description only.

LXXXV. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Construction of terms.

LXXXVI. The word "children" in a Will applies only to lineal descendants in the first degree; the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "children," or "grandchildren," are spoken of; the words "nephews" and "nieces" apply only to children of brothers or sisters; the words "cousins" or "first cousins," or "cousins-german" apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins" or "cousins-german," are spoken of; the words "first cousins once removed" apply only to children of cousins-german, or to cousins german of a parent of the person whose "first cousins once removed" are spoken of; the words "second cousins" apply only to grandchildren of brothers or of, sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of; the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

Words denoting relationship denote only legitimate relatives, or, failing such, relatives reputed legitimate.

LXXXVII. In the absence of any intimation to the contrary in the Will, the term "child," "son," or "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or, where there is no such legitimate relative, a person who has acquired, at the date of the Will, the reputation of being such relative.

Illustrations.

(*a*) A, having three children, B, C, and D, of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(*b*) A having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(*c*) A, having in his Will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(*d*) A leaves a legacy to the "children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the Will, acquired the reputation of being the children of B, are objects of the gift.

(*e*) A bequeathed a legacy to "the children of B." B never had any legitimate child, C and D had at the date of the Will acquired the reputation of being children of B. After the date of the will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(*f*) A makes a bequest in favor of his child by a certain woman, not his wife. B had acquired at the date of the Will the reputation of being the child of A by the woman designated. B takes the legacy.

(*g*) A makes a bequest in favor of his child to be born of a woman who never becomes his wife. The bequest is void.

(h) A makes a bequest in favor of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

Rules of construction where a Will purports to make two bequests to the same person.

LXXXVIII. Where a Will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the Will to show what he intended, the following rules shall prevail in determining the construction to be put upon the Will :—

First.—If the same specific thing is bequeathed twice to the same legatee in the same Will, or in the Will and again in a Codicil, he is entitled to receive that specific thing only.

Second.—Where one and the same Will or one and the same Codicil, purports to make in two places a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.

Third.—Where two legacies of unequal amount are given to the same person in the same Will, or in the same Codicil, the legatee is entitled to both.

Fourth.—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a Will, and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both legacies.

Explanation.—In the four last rules, the word Will does not include a Codicil.

Illustrations.

(a) A having ten shares, and no more, in the Bank of Bengal, made his Will, which contains near its commencement the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the Will concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(b) A having one diamond ring, which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a Codicil to his Will, and thereby, after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(c) A by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, in the same Will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(d) B, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, by the same Will, bequeaths to B the sum of 6,000 rupees. B is entitled to 11,000 rupees.

(e) A, by his Will, bequeaths to B 5,000 rupees and by al Codicil to the Will he bequeaths to him 5,000 rupees, B is entitled to receive 10,000 rupees.

(f) A, by one Codicil to his Will, bequeaths to B 5,000 rupees, and by another Codicil, bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(g) A, by his Will, bequeaths "500 rupees to B because she was his nurse," and in another part of the Will bequeaths 500 rupees to B "because she went to England with his children." B is entitled to receive 1,000 rupees.

(h) A, by his Will, bequeaths to B the sum of 5,000 rupees and also, in another part of the Will, and annuity of 400 rupees. B is entitled to both legacies.

(i) A, by his Will bequeaths to B the sum of 5,000 rupees, and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees and takes a contingent interest in another sum of 5,000 rupees.

Construction of residuary legatee.

LXXXIX. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

Illustrations.

(a) A makes her Will, consisting of several testamentary papers, in one of which are contained the following words :—"I think there will be something left, after all funeral expenses, &c., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to" B is constituted residuary legatee.

(b) A makes his Will with the following passage at the end of it:—"I believe there will be found sufficient in my banker's hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure." B is constituted the residuary legatee.

(c) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

Property to which a residuary legatee is entitled.

XC. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death of which he has not made any other testamentary disposition which is capable of taking effect.

Illustration.

A by his Will bequeaths certain legacies, one of which is void under Section CV. and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his Will, A purchases a zamindari, which belongs to him at the time of his death. B is entitled to the two legacies and the zamindari as part of the residue.

Time of vesting of a legacy in general terms.

XCI. If a legacy be given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

In what case a legacy lapses.

XCII. If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the Will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

Illustrations.

(*a*) The testator bequeaths B "500 rupees which B owes him." B dies before the testator; the legacy lapses.

(*b*) A bequest is made to A and his children. A dies before the testator or happens to be dead when the Will is made. The legacy to A and his children lapses.

(*c*) A legacy is given to A, and in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(*d*) A sum of money is bequeathed to A for life, and after his death to B. A dies in the life-time of the testator; B survives the testator. The bequest to B takes effect

(*e*) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the life-time of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(*f*) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

A legacy does not lapse if one of two joint legatees die before testator.

XCIII. If a legacy be given to two persons jointly, and one of them die before the testator, and other legatee takes the whole.

Illustration.

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

Effect in such a case, of words showing testator's intention that the shares should be distinct.

XCIV. But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Illustration.

A sum of money is bequeathed to A, B, and C, to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

When lapsed share goes as undisposed of.

XCV. Where the share that lapses is a part of the general residue bequeathed by the Will, that share shall go as undisposed of.

Illustration.

The testator bequeaths the residue of his estate to A, B, and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

When a bequest to testator's child or lineal descendant, does not lapse on his death in testator's life-time.

XCVI. Where a bequest shall have been made to any child or other lineal descendant of the testator, and the legatee shall die in the life time of the testator but any lineal descendant of his shall survive the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

Illustration.

A makes his Will, by which he bequeaths a sum of money to his son B for his absolute use and benefit. B dies before A, leaving a son C, who survives A, and having made his Will whereby he bequeaths all his property to his widow D. The money goes to D.

Bequest to A for benefit of B does not lapse by A's death in testator's life-time.

XCVII. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's life-time, of the person to whom the bequest is made.

Survivorship in case of bequest to a described class.

XCVIII. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at the time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations.

(*a*) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the Will, leaving three children, C, D, and E. E died after the date of the Will, but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(*b*) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(*c*) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D: and he never had any other child. Afterwards, during the life-time of A, C died, leaving E his executor, D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(*d*) A sum of money was bequeathed to A for her life, and after her decease to the children of B. At the death of the testator, B had two children living, C and D, and after that event, two children, E, and F, were born to B. C and E died in the life-time of A, C having made a Will, E having made no Will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(*e*) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B; D, and E have survived B. One-third of A's lands belongs to D, E, and the representatives of C in equal shares.

(*f*) A bequeaths 1,000 rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(*g*) A bequeaths 1,000 rupees to "all the children born or to be born" of B, to be divided among them at the death of C. At the death of the testator, B had two children living, D and E. After the death of the testator, but in the life-time of C, two other children F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F, and G, to the exclusion of the after-born child of B.

(*h*) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority At the testator's death B, had one child living, named C. He afterwards had two other children named D, and E. E died, but C. and D. where living when C attained majority. The fund belongs to C, D, and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

PART XII.

OF VOID BEQUESTS.

Bequest to a person by a particular description, who does not exist, at testator's death.

XCIX. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Exception—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or if he be dead, to his representatives.

Illustrations.

(*a*) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator, B had no son. The bequest is void.

(*b*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(*c*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(*d*) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(*e*) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator, C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

Bequest to a person not alive at the testator's death subject to a prior bequest.

C. Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the Will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Illustrations.

(*a*) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A

has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator The bequest to A's oldest son for his life is void.

(b) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator A has daughters, some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(c) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlements has the effect, in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(d) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons, not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

Rule against perpetuity.

CI. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the life-time of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if the attains full age, the thing bequeathed is to belong.

Illustrations.

(a) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of the sons of B as shall first attain the age of 25 A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the date of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the life-time of A and B, and the minority of the sons of B. The bequest after B's death is void.

(b) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25 B dies in the life-time of the testator, leaving one or more sons In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own life-time The bequest is valid.

(c) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(d) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

Bequest to a class, some of whom may come under the rules in Sections 100 and 101.

CII. If a bequest is made to a class of persons, with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections or either of them, such bequest shall be wholly void.

Illustrations.

(a) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(b) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, D, are children of A living at the testator's decease. In all other respects the case is the same as that supposed in illustration (a). The mention of B, C and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

CIII. Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

Bequest to take effect on failure of bequest void under Section 100, 101, or 102.

Illustrations.

(*a*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son, to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(*b*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25 and if no sons of A shall attain that age to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

CIV. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Direction for accumulation.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(*a*) The Will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal together with the accumulations, shall then be divided between A, B and C. A, B, and C are entitled to receive the sum of 10,000 rupees at the end of the year from the testator's death.

(*b*) The Will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(*c*) The Will directs that the rents of the farm of Sultánpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(*d*) The Will directs that the rents of the farm of Sultánpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(*e*) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the Will, but in consequence of B's minority.

CV. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a Will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the Wills of living persons.

Bequest to uses, religious or charitable.

Illustrations.

A having a nephew makes a bequest by a Will not executed nor deposited as required—

For the relief of poor people;
For the maintenance of sick soldiers;
For the erection or support of a hospital;
For the education and preferment of orphans;
For the support of scholars;
For the erection or support of a school;
For the building and repairs of a bridge;
For the making of roads;
For the erection or support of a church;
For the repairs of a church;
For the benefit of ministers of religion;
For the formation or support of a public garden.

All these bequests are void.

PART XIII.

OF VESTING OF LEGACIES.

CVI. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the Will, becomes vested in the legatee

Date of vesting of legacy when payment or possession postponed.

on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy. And in such cases the legacy is from the testator's death said to be vested in interest.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen, the legacy shall go over to another person.

Illustrations.

(*a*) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(*b*) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(*c*) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(*d*) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(*e*) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(*f*) A fund is bequeathed to A, B, and C in equal shares, to be paid to them on their attaining the age of 18 respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of testator the shares vest in interest in A, B, and C, subject to be devested in case A, B, and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy is contingent upon a uncertain event.

CVII. A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible. In either case, until the condition has been fullfiled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the Will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit; the bequest of the fund is not contingent.

Illustrations.

(*a*) A legacy is bequeathed to D in case A, B, and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B, and C all die under 18, or one of them attains that age.

(*b*) A sum of money is bequeathed to A "in case he shall attain the age of 18," or, "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining the age.

(*c*) An estate is bequeathed to A for life, and after his death to B if B shall then be living, but if B shall not be then living, to C. A, B, and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(*d*) An estate is bequeathed as in the case last supposed. B dies in the life-time of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(*e*) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B with a proviso that if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(*f*) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(*g*) An estate is bequeathed to A until he shall take advantage of the Act for the Relief of Insolvent Debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(*h*) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(*i*) A leaves his farm of Sultánpur Khurd to B, if B shall convey his own farm of Sultanpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(*j*) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent, until the condition shall be fulfilled by the

expiration of the five years without B's having married C, or by the occurrence, within that period, of an event which makes the fulfilment of the condition impossible.

(*k*) A fund is bequeathed to A if B shall not make any provision for him by Will. The legacy is contingent until B's death.

(*l*) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(*m*) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

CVIII. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

Illustration.

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18, has a vested interest in the bequest.

PART XIV.

OF ONEROUS BEQUESTS.

Onerous bequest.

CIX. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Illustration.

A having shares in (X) a prosperous joint stock company, and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y) He forfeits the shares in (X).

One of two independent bequests to same person may be accepted and the other refused.

CX. Where a Will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former my be beneficial and the latter onerous.

Illustration.

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

PART XV.

OF CONTINGENT BEQUESTS.

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

CXI. Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the Will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

Illustrations.

(*a*) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(*b*) A legacy is bequeathed to A, and in case of his death without children, to B. If A survives the testator or dies in his life-time leaving a child, the legacy to B does not take effect.

(*c*) A legacy is bequeathed to A when and if he attains the age of 18; and in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(*d*) A legacy is bequeathed to A for life, and after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children," are to be understood as meaning in case B shall die without children during the life-time of A.

(*e*) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B shall die in the life-time of A."

Bequest to such of certain persons as shall survive at some period not specified.

CXII. Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the Will.

Illustrations.

(*a*) Property is bequeathed to A and B, to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(b) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(c) Property is bequeathed to A for life, and after his death to B, and C, or the survivor, with a direction that if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the life-time of A. The legacy goes to the representative of B.

(d) Property is bequeathed to A for life, and after his death to B. and C, with a direction that, in case either of them dies in the life-time of A, the whole shall go to the survivor. B dies in the life-time of A. Afterwards C dies in the life-time of A. The legacy goes to the representative of C.

PART XVI.

OF CONDITIONAL BEQUESTS.

Bequest upon impossible condition.

CXIII. A bequest upon an impossible condition is void.

Illustrations.

(a) An estate is bequeathed to A on condition that he shall walk one hundred miles in an hour. The bequest is void.

(b) A bequeaths 500 rupees to A on condition that he shall marry A's daughter. A's daughter was dead at the date of the Will. The bequest is void.

Bequest upon illegal or immoral condition.

CXIV. A bequest upon a condition, the fulfilment of which whould be contrary to law or to morality, is void.

Illustrations.

(a) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(b) A bequeaths 500 rupees to his niece if she will desert her husband. The bequest is void.

Fulfilment of a condition precedent to vesting of a legacy.

CXV. Where a Will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Illustrations.

(a) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D, and E. A marries with the written consent of B. C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(b) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(c) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries in the life-time of B, C, and D, with the consent of B and C only. A has not fulfilled the condition.

(d) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A obtains the unconditional assent of B C, and D to his marriage with E. Afterwards B, C, and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(e) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries without the consent of B, C, and D but obtains their consent after the marriage. A has not fulfilled the condition.

(f) A makes his Will, whereby he bequeaths a sum of money to B if B shall marry with the consent of A's executors. B marries during the life-time of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(g) A legacy is bequeathed to B if he executes a certain document within a time specified in the Will. The document is executed by A within a reasonable time, but not within the time specified in the Will. A has not performed the condition, and is not entitled to receive the legacy.

Bequest to A, and, on failure of the prior bequest, to B.

CXVI. Where there is a bequest to one person and a bequest of the same thing to another if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

Illustrations.

(a) A bequeaths a sum of money to his own children surviving him, and if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(b) A bequeaths a sum of money to B. on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's life-time. The bequest to C takes effect.

Case in which the second bequest shall

CXVII. Where the Will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner,

the second bequest shall not take effect unless the prior bequest fails in that particular manner.

not take effect on failure of the first.

Illustration.

A makes a bequest to his wife, but in case she should die in his life-time, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

CXVIII. A bequest may be made to any person with the condition superadded that, in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, 117.

Bequest may be made conditional upon the happening or not happening of a specified uncertain event.

Illustrations.

(*a*) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be devested and to go to A in case B shall die under 18.

(*b*) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a Will, the estate shall go to B. A disputes the competency of the testator to make a Will. The estate goes to B.

(*c*) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be devested if he dies leaving a son in A's life-time.

(*d*) A sum of money is bequeathed to A and B and if either should die during the life of C, then to the survivor living at the death of C. A and B, die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(*e*) A bequeaths to B the interest of a fund for life, and directs the fund to be divided, at her death equally among her three children, or such of them as shall be living at her death. All the children of B die in B's life-time. The bequest over cannot take effect, but the interests of the children pass to their representatives.

CXIX. An ulterior bequest of the kind contemplated by the last preceding Section cannot take effect, unless the condition is strictly fulfilled.

Condition must be strictly fulfilled.

Illustrations.

(*a*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C, and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(*b*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(*c*) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

CXX. If the ulterior bequest be not valid, the original bequest is not affected by it.

Original bequest not affected by invalidity of second.

Illustrations.

(*a*) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the Will.

(*b*) An estate is bequeathed to A for her life, and if she do not desert her husband, to B. A is entitled to the estate during her life as if no condition had been inserted in the Will.

(*c*) An estate is bequeathed to A for life, and if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section XCII., and A is entitled to the estate during his life.

CXXI. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Bequest on a condition that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

Illustrations.

(*a*) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life-interest in the estate.

(*b*) An estate in bequeathed to A, provided that if he marries under the age of 25 without the consent of the executors named in the Will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(c) An estate is bequeathed to A, provided that if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within time prescribed. His interest in the estate ceases.

(d) An estate is bequeathed to A, with a proviso that if she becomes a Nun she shall cease to have any interest in the estate. A becomes a Nun. She loses her interest under the Will.

(e) A fund is bequeathed to A for life, and after his death to B, if B shall be then living. with a proviso that if B shall become a Nun, the bequest to her shall cease to have any effect. B becomes a Nun in the life-time of A. She thereby loses her contingent interest in the fund.

Such condition must not be invalid under Section 107.

CXXII. In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by Section CVII.

Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified and on non-performance of which the subject-matter is to go over.

CXXIII. Where a bequest is made with a condition superadded that unless the legatee shall perform a certain act the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died whithout performing such act.

Illustrations.

(a) A bequest is made to A with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(b) A bequest is made to A with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

Performance of condition, either precedent or subsequent, within specified time.

CXXIV. Where the Will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect; the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

Further time allowed in case of fraud.

PART XVII.

OF BEQUESTS WITH DIRECTIONS AS TO APPLICATION OR ENJOYMENT.

Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

CXXV. Where a fund is bequeathed absolutely to or for the benefit of any person, but the Will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the Will had contained no such direction.

Illustration.

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the Army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

Direction that a mode of enjoyment of absolute bequest is to be restricted, to secure a specified benefit for the legatee.

CXXVI. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the Will had contained no such direction.

Illustrations.

(a) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried, the representatives of each daughter are entitled to her share of the residue.

(b) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

Bequest of a fund for purposes, some of which cannot be fulfilled.

CXXVII. Where the testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the Will, remains a part of the estate of the testator.

Illustrations.

(a) A direct that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principle among his children; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(b) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

PART XVIII.

OF BEQUESTS TO AN EXECUTOR.

Legatee named as executor cannot take unless he shews intention to act as executor.

CXXVIII. If a legacy is bequeathed to a person who is named an executor of the Will, he shall not take the legacy unless he proves the Will or otherwise manifests an intention to act as executor.

Illustration.

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the Will, and dies a few days after the testator, without having proved the Will. A has manifested an intention to act as executor.

PART XIX.

OF SPECIFIC LEGACIES.

Specific legacy defined.

CXXIX. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

Illustrations.

(a) A bequeaths to B—
"The diamond ring presented to him by C."
"His gold chain."
"A certain bale of wool."
"A certain piece of cloth."
"All his household goods, which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."
"The sum of 1,000 rupees in a certain chest."
"The debt which B owes him."
"All his bills, bonds, and securities belonging to him, lying in his lodging in Calcutta."
"All his furniture in his house in Calcutta."
"All his goods on board a certain ship then lying in the River Hooghly."
"2,000 rupees which he has in the hands of C."
"The money due to him on the bond of D."
"His mortgage on the Rampore Factory."
"One-half of the money owing to him on his mortgage of Rampore Factory."
"1,000 rupees, being part of a debt due to him from C."
"His capital Stock of 1,000*l.* in East India Stock."
"His promissory notes of the Government of India, for 10,000 rupees in their 4 per cent. loan.
"All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company."
"All the wine which he may have in his cellar at the time of his death."
"Such of his horses as B may select."
"All his shares in the Bank of Bengal."
"All the shares in the Bank of Bengal which he may possess at the time of his death."
"All the money which he has in the 5½ per cent. loan of the Government of India."
"All the Government securities he shall be entitled to at the time of his decease."
Each of these legacies is specific.

(b) A having Government promissory notes for 10,000 rupees, bequeaths to his executors "Government promissory notes for 10,000 rupees in trust to sell" for the benefit of B.
The legacy is specific.

(c) A having property at Benares, and also in other places, bequeaths to B all his property at Benares.
The legacy is specific.

(d) A bequeaths to B—
His house in Calcutta.
His zamíndári of Rampore.
His taluk of Rámnagar.
His lease of the Indigo factory of Sulkea.
An annuity of 500 rupees out of the rents of his zamíndári of W.
A directs his zamíndári of X. to be sold, and the proceeds to be invested for the benefit of B. Each of these bequest is specific.

(e) A by his Will charges his zamíndári of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamíndári to D. Each of these bequests is specific.

(f) A bequeaths a sum of money to buy a house in Calcutta for B.
To buy an estate in Zillah Furreedpore for B.
To buy a diamond ring for B.
To buy a horse for B.
To be invested in shares in the Bank of Bengal for B.
To be invested in Government securities for B.

A bequeaths to B—

"A diamond ring."

"A horse."

"10,000 rupees worth of Government securities."

"An annuity of 500 rupees."

"2,000 rupees to be paid in cash."

"So much money as will produce 5,000 rupees 4 per cent. Government securities"

These bequests are not specific.

(g) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England.

No one of these legacies is specific.

Bequest of a sum certain where the stocks, &c., in which it is invested are described.

CXXX. Where a sum certain is bequeathed, the legacy is not specific merely because the stocks, funds, or securities in which it is invested are described in the Will.

Illustration.

A bequeaths to B—

"10,000 rupees of his funded property."

"10,000 rupees of his property now invested in Shares of the East Indian Railway Company."

"10,000 rupees, at present secured by mortgage of Rampore Factory."

No one of these legacies specific.

Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

CXXXI. Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific merely because the testator was at the date of his Will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

Illustration.

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the Will five per cent. Government securities for 5,000 rupees.

The legacy is not specific.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

CXXXII. A money legacy is not specific merely because the will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

Illustration.

A bequeaths to B 10,000 rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.

The legacy is not specific.

When enumerated articles are not to be deemed to be specifically bequeathed.

CXXXIII. Where a Will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed the articles enumerated shall not be deemed to be specifically bequeathed.

Retention, in form of specific bequests to several persons in succession.

CXXXIV. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is containually decreasing.

Illustrations.

(a) A having a lease of a house for a term of years 15 of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although if B lives for 15 years, C take nothing under the bequest.

(b) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death, to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

CXXXV. Where property comprised in a bequest to two or more persons in sucession, is not specifically bequeathed, it shall in the absence of any direction to the contrary be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.

Illustration.

A, having a lease for a term of years, bequeaths "all his property" to B for life and after B's death, to C. The lease must be sold, and the proceeds invested as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

CXXXVI. If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

PART XX.

OF DEMONSTRATIVE LEGACIES.

Demonstrative legacy defined.

CXXXVII. Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that where specified property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(a) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific: the legacy to C is demonstrative.

(b) A bequeaths to B "ten bushels of the corn which shall grow in his field of Greenacre."
"80 chests of the Indigo which shall be made at his factory of Ramporo."
"10,000 rupees out of his five per cent. promissory notes of the Government of India."
An annuity of 500 rupees "from his funded property."
1,000 rupees out of the sum of 2,000 rupees due to him by C."
A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his taluk of Ramnagar.
A bequeaths to B "10,000 rupees out of his estate at Ramnagar," or charges it on his estate at Ramnagar.
"10,000 rupees, being his share of the capital embarked in a certain business."
Each of these bequests is demonstrative.

Order of payment when legacy is directed to be paid out of a fund the subject of a specific legacy.

CXXXVIII. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and, so far as the residue shall be deficient out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

PART XXI.

OF ADEMPTION OF LEGACIES.

Ademption explained.

CXXXIX. If anything which has been specifically bequeathed does not, belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it can not take effect by reason of the subject-matter having been withdrawn from the operation of the Will.

Illustrations.

(a) A bequeaths to B—
"The diamond ring presented to him by C."
"His gold chain."
"A certain bale of wool."
"A certain piece of cloth."
"All his household goods which shall be in or about his dwelling house in M Street in Calcutta, at the time of his death."

A, in his life-time,
Sells or gives away the ring.
Converts the chain into a cup.
Converts the wool into cloth.
Makes the cloths into a garment.
Takes another house into which he removes all his goods.
Each of these legacies is adeemed.

(b) A bequeaths to B—
"The sum of 1,000 rupees in a certain chest."
"All the horses in his stable."
At the death of A, no money is found in the chest, and no horses in the stable.
The legacies are adeemed.

(c) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned.
The legacy is adeemed.

Non-ademption of demonstrative legacy.

CXL. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the Will does not exist at the time of the death of the testator, or has been converted into property of a different kind; but it shall in such case be paid out of the general assets of the testator.

Ademption of specific bequest of right to receive something from a third party.

CXLI. Where the thing specifically bequeathed is the right to receive some thing of value from a third party, and the testator himself receives it, the bequest is adeemed.

Illustrations.

(*a*) A bequeaths to B—
"The debt which C owes him.
"2,000 rupees which he has in the hands of D."
"The money due to him on the bond of E."
"His mortgage on the Rampore Factory."
All these debts are extinguished in A's life-time, some with and some without his consent. All the legacies are adeemed.

(*b*) A bequeaths to B—
"His interest in certain policies of life assurance."
A in his life-time receives the amount of the policies. The legacy is adeemed.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

CXLII. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Illustration.

A bequeaths to B "the debt due to him by C." The debt amounts to 10,000 rupees. C pays to A 5,000 rupees, the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

Ademption *pro tanto* by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

CXLIII. If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Illustration.

A bequeaths to B one half of the sum of 10,000 rupees due to him from W. A in his life-time receives 6 000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

CXLIV. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee; if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives 500 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,5000 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

CXLV. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Illustration.

A bequeaths to B—
"His capital stock of 1,000*l.* in East India Stock."
"His promissory notes of the Government of India for 10,000 rupees in their 4 percent. loan."
A sells the stock and the notes.
The legacies are adeemed.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

CXLVI. Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Illustration.

A bequeaths to B—
"His 10,000 rupees in the 5½ per cent. loan of the Government of India."
A sells one-half of his 10,000 rupees in the loan in question.
One-half of the legacy is adeemed.

Non-ademption of specific bequest of goods described as connected with a certain place by reason of removal.

CXLVII. A specific bequest of goods under a description connecting them with a certain place, is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Illustrations.

(*a*) A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed from the house to save them from fire. A dies before they are brought back.

(b) A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

When removal of thing bequeathed does not constitute ademption.

CXLVIII. The removal of the thing bequeathed from the place in which it is stated in the Will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

Illustrations.

(a) A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

(b) A bequeaths to B all his furniture then in his house in Calcutta. The Testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

(c) A bequeaths to B all his goods on board a certain ship then lying in the River Hooghly. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

CXLIX. Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

Illustration.

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

Change, by operation of law, of subject of specific bequest between date of Will and testator's death.

CL. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

Illustrations.

(a) A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's life-time into 5 per cent. stock.

(b) A bequeaths to B the sum of 2,000*l*, invested in Consols in the names of trustees for A.

The sum of 2,000*l*, is transferred by the trustees into A's own name.

(c) A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power, under his marriage, settlement, to dispose of by will. Afterwards, in A's life-time the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

CLI. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all his 3 per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed, lent to a third party on condition that it shall be replaced.

CLII. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

Stock specifically bequeathed, sold but replaced and belonging to the testator at his death.

CLIII. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death the legacy is not adeemed.

PART XXII.

OF THE PAYMENT OF LIABILITIES IN RESPECT OF THE SUBJECT OF A BEQUEST.

Non-liability of executor to exonerate any specific legatees.

CLIV. Where property specifically bequeathed is subject at the death of the testator to any pledge, lien, or incumbrance created by the testator himself or by any person under whom he claims, then, unless a contrary intention appears by the Will, the legatee, if he accept the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this Section.

Illustrations.

(*a*) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(*b*) A bequeaths to B a zamindari, which at A's death is subject to a mortgage for 10,000 rupees, and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Completion of testator's title to things bequeathed, to be at cost of his estate.

CLV. Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations.

(*a*) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(*b*) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

Exoneration of legatee's immoveable property for which land revenue or rent is payable periodically.

CLVI. Where there is a bequest of any interest in immoveable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

Illustration.

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate shall make good 25 rupees in respect of the rent.

Exoneration of specific legatee's stock in a Joint Stock Company.

CLVII. In the absence of any direction in the Will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death is respect of such stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate; but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee if he accept the bequest.

Illustrations.

(*a*) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of 5*l.* in respect of each share, being the amount of a call which had been duly made; and the sum of 5*s.* in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(*b*) A has agreed to take 50 shares in an intended Joint Stock Company, and has contracted to pay up 5*l.* in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(*c*) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(*d*) A bequeaths to B his shares in a Joint Stock Company. B accepts the bequest. Afterwards the affairs of the Company are wound-up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(*e*) A is the owner of ten shares in a Railway Company. At a meeting held during his life-time a call is made of 3*l.* per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

PART XXIII.

OF BEQUESTS OF THINGS DESCRIBED IN GENERAL TERMS.

CLVIII. If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Bequest of thing generally described.

Illustrations.

(*a*) A bequeaths to B *a* pair of carriage horses, or *a* diamond ring. The executor must provide the legatee with such articles, if the state of the assets will allow it.

(*b*) A bequeaths to B "*his* pair of carriage horses." A had no carriage horses at the time of his death. The legacy fails.

PART XXIV.

OF BEQUESTS OF THE INTEREST OR PRODUCE OF A FUND.

CLIX. Where the interest or produce of a fund is bequeathed to any person, and the Will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

Bequest of the interest or produce of a fund.

Illustrations.

(*a*) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the Will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(*b*) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(*c*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

PART XXV.

OF BEQUESTS OF ANNUITIES.

CLX. Where an annuity is created by Will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the Will. And this rule shall not be varied by the circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

Annuity created by Will is payable for life only, unless a contrary intention appears by the Will.

Illustrations.

(*a*) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(*b*) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 rupees every month.

(*c*) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

CLXI. Where the Will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled, at his option, to have an annuity purchased for him, or to receive the money appropriated for that purpose by the Will.

Period of vesting where Will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

Illustrations.

(*a*) A by his Will directs that his executors shall out of his property purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(*b*) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

CLXII. Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the Will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the Will.

Abatement of annuity.

CLXIII. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and if necessary, the capital of the testator's estate shall be applied for that purpose.

Where there is a gift of an annuity, and a residuary gift, the whole of the annuity to be first satisfied.

PART XXVI.

OF LEGACIES TO CREDITORS AND PORTIONERS.

Creditor *prima facie* entitled to legacy as as well as debt.

CLXIV. Where a debtor bequeaths a legacy to his creditor and it does not appear from the Will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Child *prima facie* entitled to legacy as well as portion.

CLXV. Where a parent who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his Will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

Illustration.

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by a subsequent provision for the legatee.

CLXVI. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

Illustrations.

(*a*) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(*b*) A bequeaths 40,000 rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

PART XXVII.

OF ELECTION.

Circumstances in which election takes place

CLXVII. Where a man, by his Will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case he shall give up any benefits which may have been provided for him by the Will.

Devolution of interest relinquished by the

CLXVIII. The interest so relinquished shall devolve as if it had not been disposed of by the Will in favor of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given him by the Will.

Testator's belief as to his ownership immaterial.

CLXIX. This rule will apply whether the testator does or does not believe that which he professes to dispose of by his Will to be his own.

Illustration.

(*a*) The farm of Sultanpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultanpur, which is worth 800 rupees. C forfeits his legacy of 1 000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*b*) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall have no issue living at his death. A also bequeaths to C a jewel, which belongs to B B must elect to give up the jewel, or to lose the estate.

(*c*) A bequeaths to B 1,000 rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married, and has children) shall have no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(*d*) A, a person of the age of 18 domiciled in British India, but owning real property in England to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever, and wheresoever," and dies under 21. The real property in England does not pass by the Will. C may claim his legacy without giving up the real property in England.

Bequest for a man's benefit how regarded for the purpose of election.

CLXX. A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Illustration.

The farm of Sultanpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultanpur Buzurg to his own executors, with a direction that it should be sold, and the proceeds applied in payment of B's debts. B must elect whether he will abide by the Will, or keep his farm of Sultanpur Khurd in opposition to it.

A person deriving a benefit indirectly not put to his election.

CLXXI. A person taking no benefit directly under the Will, but deriving a benefit under it indirectly, is not put to his election.

Illustration.

The lands of Sultanpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultanpur to B, and 1,000 rupees to C. C dies intestate

shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the Will. In that capacity he receives the legacy of 1,000 rupees, and accounts to B for the rents of the lands of Sultanpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultanpur in opposition to the Will.

A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

CLXXII. A person who in his individual capacity takes a benefit under the Will, may in another character elect to take in opposition to the Will.

Illustration.

The estate of Sultanpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultanpur to D, and 2,000 rupees to B, and 1,000 Rs. to C, who is B's only child. B dies intestate, shortly after the testator without having made an election. C takes out administration to B and as administrator elects to keep the estate of Sultanpur in opposition to the Will; and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the Will.

Exception to the six last Rules—Where a particular gift is expressed in the Will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the Will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the Will.

Illustration.

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultanpur during her life.

A by his Will bequeaths to his wife an annuity of 200*l.* during her life, in lieu of her interest in the estate of Sultanpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000*l* The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of 1,000*l.*

When acceptance of a benefit given by a Will constitutes an election to take under the Will.

CLXXIII. Acceptance of a benefit given by the Will constitutes an election by the legatee to take under the Will, if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

Illustrations.

(*a*) A is owner of an estate called Sultanpur Khurd and has a life interest in another estate called Sultanpur Buzurg, to which, upon his death, his son B will be absolutely entitled. The Will of A gives the estate of Sultanpur Khurd to B, and the estate of Sultanpur Buzurg to C. B, in ignorance of his own right to the estate of Sultanpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultanpur Khurd. B has not confirmed the bequest of Sultanpur Buzurg to C.

(*b.*) B, the eldest son of A, is the possessor of an estate called Sultanpur. A bequeaths Sultanpur to C, and to B the residue of A's property. B, having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultanpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultanpur to C.

Presumption arising from enjoyment by legatee for two years.

CLXXIV. Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the Will without doing any act to express dissent.

Confirmation of bequest by act of legatee.

CLXXV. Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

Illustration.

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine, and exhausts it. He has thereby confirmed the bequest of the estate to B.

When testator's representatives may call upon legatee to elect.

Effect of not complying with their request within a reasonable time.

CLXXVI. If the legatee shall not, within one year after the death of testator, signify to the testator's representatives his intention to confirm or to dissent from the Will, the representatives shall, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the Will.

Postponement of election in case of disability.

CLXXVII. In case of disability the election shall be postponed until the disability ceases, or until the election shall be made by some competent authority.

PART XXVIII.

OF GIFTS IN CONTEMPLATION OF DEATH.

Property transferable by gift made in contemplation of death.

CLXXVIII. A man may dispose, by gift made in contemplation of death of any moveable property which he could dispose of by will. A gift is said to be made in contemplation of death where a man who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep

When a gift is said to be made in contemplation of death.
Such gift resumable.
When it fails.

as a gift in case the donor shall die of that illness. Such a gift may be resumed by the giver. It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Illustrations.

(a) A, being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.
A bond granted by C to A.
A Bank Note.
A promissory note of the Government of India endorsed in blank
A Bill of Exchange endorsed in blank.
Certain mortgage deeds.
A dies of the illness during which he delivered these articles.

B is entitled to—

The watch.
The debt secured by C's bond.
The Bank Note.
The promissory note of the Government of India.
The Bill of Exchange.
The money secured by the mortgage deeds.

(b) A, being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(c) A, being ill, and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

PART XXIX.

OF GRANT OF PROBATE AND LETTERS OF ADMINISTRATION.

Character of executor or administrator as such.

CLXXIX. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Administration with copy annexed of authenticated copy of Will proved abroad.

CLXXX. When a Will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the Province, whether in the British dominions, or in a foreign country, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate to be granted to executor appointed by Will.

CLXXXI. Probate can be granted only to an executor appointed by the Will.

Appointment express or implied.

CLXXXII. The appointment may be express or by necessary implication.

Illustrations.

(a) A Wills that C be his executor if B will not; B is appointed executor by implication.

(b) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(c) A appoints several persons executors of his Will and Codicils, and his nephew residuary legatee, and in another Codicil are those words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my Will and Codicils, signed of different date." The nephew is appointed an executor by implication.

Person to whom probate cannot be granted.

CLXXXIII. Probate can not be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Probate may be granted to several executors simultaneously or at different times.

CLXXXIV. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Illustration.

A is an executor of B's Will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

Separate probate of Codicil discovered after grant of probate.
Procedure when different executors are appointed by the Codicil.

CLXXXV. If a Codicil be discovered after the grant of probate, a separate probate of that Codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the Will. If different executors are appointed by the Codicil, the probate of the Will must be revoked, and a new probate granted of the Will and the Codicil together.

CLXXXVI. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Accrual of representation to surviving executor.

CLXXXVII. No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the Province shall have granted probate of the Will under which the right is claimed, or shall have granted letters of administration under Section CLXXX.

No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

CLXXXVIII. Probate of a Will, when granted establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Probate establishes the Will from testator's death.

CLXXXIX. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Persons to whom letters of administration may not be granted.

CXC. No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

No right to intestate's property can be established unless administration be previously granted by a competent Court.

CXCI. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

From what period letters of administration entitle administrator to intestate's rights.

CXCII. Letters of administration do not render valid any intermediate acts of the administrator, tending to the diminution or damage of the intestate's estate.

Improper act of administrator not validated by letters of administration.

CXCIII. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that, when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Grant of administration where executor has not renounced.

Exception.

CXCIV. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

Form and effect of renunciation of executorship.

CXCV. If the executor renounce, or fail to accept, the executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration, with a copy of the Will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

Procedure where executor renounces or fails to accept within time limited.

CXCVI. When the deceased has made a Will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the Will, or when the executor dies after having proved the Will but before he has administered all the estate of the deceased; an universal or a residuary legatee may be admitted to prove the Will, and letters of administration with the Will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Grant of administration to universal or residuary legatee.

CXCVII. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

Right to administration of representative residuary legatee.

CXCVIII. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

Grant of administration when there is no executor, nor residuary legatee, nor representative of such legatee.

CXCIX. Letters of administration with the Will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next of kin to accept or refuse letters of administration.

Citation to be issued before grant of administration to any legatee other than universal or residuary.

CC. When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

Order in which connections by marriage or by consanguinity are entitled to administration.

CCI. If the deceased has left a widow, administration shall be granted to the widow, unless the Court shall see cause to exclude her, either on the ground of

Administration to be granted to widow,

unless Court see cause to exclude her.

some personal disqualification, or because she has no interest in the estate of the deceased.

Illustrations.

(a) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate ; there is cause for excluding her from the administrati n.

(b) The widow has married again since the decease of her husbands ; this is not good cause for her exclusion,

Persons associated with widow in administration.

CCII. If the Judge think proper, he may associate any person or persons with the widow in the administration, who would be entitled solely to the administration if there were no widow.

Grant of administration where no widow, or widow excluded.

Proviso.

CCIII. If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate estate ; provided that, when the mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

Deceased's kindred of equal degree, equally entitled to administration.

CCIV. Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

Right of widower to administration of wife's estate.

CCV. The husband, surviving his wife, has the same right of administration of her estate, as the widow has in respect of the estate of her husband.

Grant of administration to a creditor.

CCVI. When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration, and willing to act, they may be granted to a creditor.

Where deceased has left property in British India, administration must be granted according to the foregoing rules.

CCVII. Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

PART XXX.

OF LIMITED GRANTS.

(a.) *Grants limited in Duration.*

Probate of copy or draft of lost Will.

CCVIII. When the Will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of contents of lost or destroyed Will.

CCIX. When the Will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of copy where original exists.

CCX, When the Will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the Will or an authenticated copy of it be produced.

Administration until the Will be produced.

CCXI. Where no Will of the deceased is forthcoming, but there is reason to believe that there is a Will in existence, letters of administration may be granted, limited until the Will, or an authenticated copy of it be produced.

(b.) *Grants for the Use and Benefit of others having Right.*

Administration, with the Will annexed, to Attorney of an absent executor.

CCXII. When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the Will annexed, may be granted to the Attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration with the Will annexed, to Attorney of an absent person, who, if present, would be entitled to adminis er.

CCXIII. When any person to whom, if present, letters of administration with the Will annexed might be granted, is absent from the Province, letters of administration with the Will annexed may be granted to his Attorney, limited as abovementioned.

Administration to Attorney of absent person entitled to administer in case of intestacy.

CCXIV. When a person entitled to administration in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the Attorney of the absent person, limited as before mentioned.

Administration during minority.

CCXV. When a minor is sole executor or sole residuary legatee, letters of administration, with the Will annexed, may be granted to the legal guardian of

such minor, or to such other person as the Court shall think fit, until the minor shall have completed the age of eighteen years, at which period, and not before, probate of the Will shall be granted to him.

Administration until minor executors or residuary legatees attain majority.

CCXVI. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have completed the age of eighteen years.

Administration for use and benefit of lunatic *jus habens.*

CCXVII. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, be a lunatic, letters of administration, with or without the Will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or, if there be no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

Administration *pendente lite*

CCXVIII. Pending any suit touching the validity of the Will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

(c.) *For Special Purposes.*

Probate limited to purpose specified in the Will.

CCXIX. If an executor be appointed for any limited purpose specified in the Will, the probate shall be limited to that purpose, and if he should appoint an Attorney to take administration on his behalf, the letters of administration with the Will annexed shall accordingly be limited.

Administration with the Will annexed limited to a particular purpose.

CCXX. If an executor appointed generally give an authority to an Attorney to prove a Will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the Will annexed shall be limited accordingly.

Administration limited to property in which a person has a beneficial interest.

CCXXI. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Administration limited to a suit.

CCXXII. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to the purpose of becoming a party to a suit to be brought against administrator.

CCXXIII. If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to the collection and preservation of deceased's property.

CCXXIV. In any case in which it may appear necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate, may grant to any person whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Administration, as administrator, of person other than the one who under ordinary circumstances would be entitled to administration.

CCXXV. When a person has died intestate, or leaving a Will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the Province, and it shall appear to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.

(d.) Grants with Exception.

Probate or administration with the Will annexed, subject to exception.

CCXXVI. Whenever the nature of the case requires that an exception be made, probate of a Will, or letters of administration with the Will annexed, shall be granted subject to such exception.

Administration with exception.

CCXXVII. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

(e.) Grants of the Rest.

Probate or administration of the rest.

CCXXVIII. Whenever a grant, with exception of probate or letters of administration, with or without the Will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

(f.) Grants of Effects unadministered.

Grant of effects unadministered.

CCXXIX. If the executor to whom probate has been granted have died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

CCXXX. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Administration when a limited grant has expired, and there is still some part of the estate unadministered.

CCXXXI. When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

(g.) Alteration in Grants.

What errors may be rectified by the Court.

CCXXXII. Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

Procedure where Codicil discovered after grant of administration with Will annexed.

CCXXXIII. If, after the grant of letters of administration with the Will annexed, a Codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

(h.) Revocation of Grants.

Revocation or annulment for just cause, of grant of probate or administration.

CCXXXIV. The grant of probate or letters of administration may be revoked or annulled for just cause.

Explanation.—Just cause is—1st, that the proceedings to obtain the grant were defective in substance ; 2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case ; 3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently ; 4th, that the grant has become useless and inoperative through circumstances.

Illustrations.

(*a*) The Court by which the grant was made had no jurisdiction.

(*b*) The grant was made without citing parties who ought to have been cited.

(*c*) The Will of which probate was obtained was forged or revoked.

(*d*) A obtained letters of administration to the estate of B, as his widow ; but it has since transpired that she was never married to him.

(*e*) A has taken administration to the estate of B as if he had died intestate, but a Will has since been discovered.

(*f*) Since probate was granted, a later Will has been discovered.

(*g*) Since probate was granted, a Codicil has been discovered, which revokes or adds to the appointment of executors under the Will.

(*h*) The person to whom probate was or letters of administration were granted, has subsequently become of unsound mind.

PART XXXI.

OF THE PRACTICE IN GRANTING AND REVOKING PROBATES AND LETTERS OF ADMINISTRATION.

Jurisdiction of District Judge in the granting and revoking of probates and letters of administration.

CCXXXV. The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his District.

CCXXXVI. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any Civil suit or proceeding depending in his Court.

District Judge's powers as to the granting of probate and letters of administration.

CCXXXVII. The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit, and had made such default, and the costs of the proceeding shall be in the discretion of the Judge.

District Judge may order any person to produce testamentary papers.

CCXXXVIII. The proceedings of the Courts of the District Judge in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated, so far as the circumstances of the case will admit, by the Code of Civil Procedure.

Proceedings of District Judge's Court in relation to probate and administration.

CCXXXIX. Until probate be granted of the Will of a deceased person, or an administrator of his estate be constituted, the District Judge, within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

When and how District Judge is to interfere for the protection of property.

CCXL. Probate of the Will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition, verified as hereinafter mentioned, of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

Probate or administration may be granted by District Judge when testator or intestate at his death had a fixed dwelling or any property within the jurisdiction.

CCXLI. When the application is made to the Judge of a District in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another District; or, where the application is for letters of administration, to grant them absolutely or limited to the property within his own jurisdiction.

When application is made to the Judge of a District in which the deceased had no fixed abode.

CCXLII. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the Province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of probate or letters of administration.

CCXLIII. The application for probate or letters of administration if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration; and no such grant shall be impeached, by reason that the testator or intestate had no fixed place of abode, or no property, within the District at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Conclusiveness of application for probate or administration, if properly made and verified.

CCXLIV. Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will annexed, and stating the time of the testator's death, that the writing annexed is his last Will and testament, that it was duly executed, and that the petitioner is the executor therein named; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge.

Petition for probate.

CCXLV. In cases wherein the Will is written in any language other than English other than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the

In what cases translation of Will to be annexed to the petition.

Verification of translation made by any person other than the Court translator.

language be one for which a translator is appointed; or if the Will be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner:—"I (A B) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

Petition for letters of administration.

CCXLVI. Application for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the deceased left some property within the jurisdiction of the District Judge to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands.

Petition for probate or letters of administration to be signed and verified.

CCXLVII. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect.

"I *(A B)*, the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

Verification of petition for probate, by one of the witnesses to the Will.

CCXLVIII. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the Will (when procurable,) in the manner or to the effect following:—

"I *(C D)*, one of the witnesses to the last Will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto *(as the case may be)* (*or* that the said testator acknowledged the writing annexed to the above petition to be his last Will and testament in my presence)."

Punishment for making false averment in petition or declaration.

CCXLIX. If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

District Judge may examine the petitioner, require further evidence and issue citations to inspect the proceedings.

CCL. In all cases it shall be lawful for the District Judge, if he shall think proper, to examine the petitioner in person, upon oath or solemn affirmation, and also to require further evidence of the due execution of the Will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all person claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

Publication of citation.

The citation shall be fixed up in some conspicuous part of the Court-house, and also in the Office of the Collector of the District, and otherwise published or made known in such manner as the Judge issuing the same may direct.

Caveat against grant of probate or administration.

CCLI. Caveats against the grant of probate or administration may be lodged with the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to any other Judge to whom it may appear to the District Judge expedient to transmit the same.

Form of caveat.

CCLII. The caveat shall be to the following effect:—"Let nothing be done in the matter of the estate of A B, late of ; deceased, who died on the day of at without notice to C D of ."

After entry of caveat no proceeding to be taken on the petition until after notice to the caveator.

CCLIII. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge to whom the application has been made, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

Grant of probate to be under seal of the Court.

CCLIV. When it shall appear to the Judge that probate of a Will should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, , Judge of the District of , hereby make known that on the day of in the year the last Will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his Will, was granted to the executor in the said Will named, he having undertaken to administer the same and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof."

Grant of letters of administration to be under seal of Court.

CCLV. And wherever it shall appear to the District Judge that letters of administration to the estate of a person deceased, with or without a copy of the Will annexed, should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, , Judge of the District of , hereby make known that on the day of letters of administration (with *or* without the

Will annexed, *as the case may be*) of the property and credits of , late of , deceased, were granted to , the father (*or as the case may be*) of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof."

Administration bond.

CCLVI. Every person to whom any grant of administration shall be committed shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

Assignment of administration bond.

CCLVII. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as the Court may think fit, assign the same to some person, his executors, or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Probate not to be granted until after seven days, administration until after after fourteen days from the testator's or intestate's death.

CCLVIII. No probate of a Will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestates death.

Filing of original Wills of which probate or letters of administration with Will annexed have been granted.

CCLIX. Every District Judge shall file and preserve all original Wills, of which probate or letters of administration with the Will annexed may be granted by him, among the records of his Court, until some public registry for Wills is established; and the Local Government shall make regulations for the preservation and inspection of the Wills so filed as aforesaid.

Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

CCLX. After any grant of probate or letters of administration, no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

Procedure in contentious cases.

CCLXI. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Effect of payment to executor before probate or letters of administration revoked.

Right of such executor to recoup himself.

CCLXII. Where any probate is or letters of administration are revoked, all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted, might have lawfully made.

Appeals from orders made by a District Judge under powers conferred by this Act.

CCLXIII. Every order made by a District Judge by virtue of the powers hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent jurisdiction of High Court.

CCLXIV. The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

PART XXXII.

OF EXECUTORS OF THEIR OWN WRONG.

Executor of his own wrong.

CCLXV. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Exceptions. First.—Intermeddling with the goods of the deceased, for the purpose of preserving them or providing for his funeral, or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

Illustrations.

(a). A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(b) A having been appointed agent by the deceased in his life-time to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(c) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

Liability of an executor of his own wrong

CCLXVI. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

PART XXXIII.

OF THE POWERS OF AN EXECUTOR OR A MINISTRATOR.

In respect of causes of action surviving the deceased, and rents due at the time of his death.

CCLXVII. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death, as the deceased had when living.

Demands and rights of action in favor of or against deceased. survive to and against executor or administrator.

CCLXVIII. All demands whatsoever and all rights to prosecute or defend any action or special proceeding, existing in favor of or against a person at the time of his decease, survive to and against his executors or administrators ; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party ; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

Illustrations.

(a) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(b) A sues for divorce. A dies. The cause of action does not survive to his representative.

Power to dispose of deceased's property.

CCLXIX. An executor or administrator has power to dispose of the property of the deceased, either wholly or in part, in such manner as he may think fit.

Illustrations.

(a) The deceased has made a specific bequest of part of his property. The executor not having assented to be bequest, sells the subject of it. The sale is valid.

(b) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

Purchase by an executor or administrator of deceased's property

CCLXX. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Powers of several executors or administrators exercisable by one.

CCLXXI. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the Will or taken out administration.

Illustrations.

(a) One of several executors has power to release a debt due to the deceased.

(b) One has power to a surrender a lease.

(c) One has power to sell the property of the deceased, moveable or immoveable.

(d) One has power to assent to a legacy.

(e) One has power to endorse a promissory note payable to the deceased.

(f) The Will appoints A, B, C, and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

CCLXXII. Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

Powers of administrator of effects unadministered.

CCLXXIII. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

CCLXXIV. An administrator during minority has all the powers of an ordinary administrator.

CCLXXV. When probate or letters of administration have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

Powers of married executrix or administratrix.

PART XXXIV.

OF THE DUTIES OF AN EXECUTOR OR ADMINISTRATOR.

CCLXXVI. It is the duty of an executor to perform the funeral of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

As to deceased's funeral.

CCLXXVII. An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted, an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character; and shall in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of.

Inventory and account.

CCLXXVIII. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

Duty of executor or administrator as to property of, and debts owing to, the deceased.

CCLXXI. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and deathbed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

Expenses to be paid before all debts.

CCLXXX. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after funeral expenses.

CCLXXXI. Wages due for services rendered to the deceased within three months next preceding his death by any laborer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased.

Wages for certain services to be next paid, and then other debts.

CCLXXXII. Save as aforesaid, no creditor is to have a right of priority over another, by reason that his debt is secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assets of the deceased will extend.

Save as aforesaid, all debts to be paid equally and rateably.

CCLXXXIII. If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Application of moveable property to payment of debts, where the deceased's domicile was not in British India.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 rupees, immoveable propery to the value of 5,000 rupees, and debts on instruments under seal to the amount of 10,000 rupees and debts on instruments not under seal to the same amount. The debts on the instruements under seal are to be paid in full out of the moveable estate, and the proceeds of the immoveable estate to be applied, as far as they will extend, towards the discharge of the debts not under seal. Accordingly, one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immoveable estate.

CCLXXXIV. No creditor who has received payment of a part of his debt by virtue of the last preceding Section shall be entitled to share in the proceeds of the immoveable estate of the deceased, unless he brings such payment into account for the benefit of the other creditors.

Creditor paid in part under Section 283 to bring such payment into account before sharing in proceeds of immoveable property.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees, which are to be distributed rateably amongst all the creditors without distinction in proportion to the amount which may remain due to them.

CCLXXXV. Debts of every description must be paid before any legacy.

Debts to be paid before legacies.

CCLXXXVI. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Executor or administrator not bound to pay any legacy without indemnity.

Abatement of general legacies.

Executor not to pay one legatee in preference to any other.

CCLXXXVII. If the assets, after payment of debts, necessary expenses, and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Non-abatement of specific legacy when assets sufficient to pay debts.

CCLXXXVIII. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Right under a demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.

CCLXXXIX. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Rateable abatement of specific legacies.

CCXC. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

Illustration.

A has bequeathed to B a diamond ring, valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5 4 are to be paid to B, and rupees 666-10-8 to C.

Legacies treated as general for the purpose of abatement.

CCXCI. For the purpose of abatement, a legacy for life, a sum appropriated by the Will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

PART XXXV.

OF THE EXECUTOR'S ASSENT TO A LEGACY.

Executor's assent necessary to complete legatee's title.

CCXCII. The assent of the executor is necessary to complete a legatee's title to his legacy.

Illustrations.

(*a*) A by his Will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*b*) A by his Will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive rents without the assent of the executor.

Effect of executor's assent to specific legacy.

Assent may be verbal, and either express or implied.

CCXCIII. The assent of the executor to a specific bequest shall be sufficient to devest his interest as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way. This assent may be verbal, and it may be either express or implied from the conduct of the executor.

Illustrations.

(*a*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b*) The interest of a fund is directed by the Will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it, This is an assent to the whole of the bequest.

(*c*) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*d*) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*e*) A person to whom a specific article has been bequeathed, takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

CCXCIV. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

Illustrations.

(*a*) A bequeaths to B his lands of Sultanpur, which, at the date of the Will, and at the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(*b*) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

CCXCV. When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or

implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

Implied assent.

Illustration.

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

CCXCVI. The assent of the executor to a legacy gives effect to it from the death of the testator.

Assent of executor gives effect to legacy from the testator's death.

Illustrations.

(*a*) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(*b*) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death, B is entitled to interest from the death of A.

CCXCVII. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Executor not bound to pay or deliver legacies until after one year from the testator's death.

Illustration.

A by his Will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

PART XXXVI

OF THE PAYMENT AND APPORTIONMENT OF ANNUITIES.

CCXCVIII. Where an annuity is given by the Will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

Commencement of annuity when no time fixed by Will.

CCXCIX. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

When payment of annuity to be paid quarterly or monthly first falls due.

CCC. Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the Will authorizes the first payment to be made; and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.

Apportionment where annuitant dies between times of payment.

PART XXXVII.

OF THE INVESTMENT OF FUNDS TO PROVIDE FOR LEGACIES

CCCI. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of sum bequeathed where a legacy, not specific, is given for life.

CCCII. Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding Section. The intermediate interest shall form part of the residue of the testator's estate.

Investment of amount of general legacy, to be paid at a future time.

Intermediate interest.

CCCIII. Where an annuity is given and no fund is charged with its payment or appropriated by the Will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be paid obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

Procedure when no fund is charge with or appropriated to an annuity.

CCCIV. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee, on his giving sufficient security for the payment of the legacy if it shall become due.

Transfer to residuary legatee of amount of contingent bequest.

CCCV. Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

Investment of residue bequeathed to a person for life, without direction to invest in particular securities.

CCCVI. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securi-

Investment of residue bequeathed to

a person for life, with direction to invest in specified securities.

Time and manner of conversion and investment.

Interest payable until investment.

ties, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

CCCVII. Such conversion and investment as are contemplated by the two last preceding Sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested, shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as from the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Procedure where minor is entitled to immediate payment or possession of bequest, and there is no direction to pay to any person on his behalf.

CCCVIII. Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the Will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom the probate was or letters of administration with the Will annexed were granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid; and such money when paid in shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

PART XXXVIII.

OF THE PRODUCE AND INTEREST OF LEGAGIES.

Legatee of a specific legacy entitled to produce thereof from the testator's death.

CCCIX. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(*a*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b*) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*c*) The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee entitled to produce of residuary fund from the testator's death.

CCCX. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy.

Illustrations.

(*a*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*b*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the tesinatator's death goes as undisposed of.

Interest when no time is fixed for payment of a general legacy.

CCCXI. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

Exceptions.—(1.) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2.) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3.) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time has been fixed.

CCCXII. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the Will for maintenance.

Rate of interest.

CCCXIII. The rate of interest shall be four per cent. per annum.

No interest is payable on arrears of annuity within first year after the testator's death.

CCCXIV. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the Will for making the first payment of the annuity.

Interest payable on a sum to be invested to produce annuity.

CCCXV. Where a sum of money is directed to be invested to produce an annuity, interest in payable on it from the death of the testator.

PART XXXIX.

O THE REFUNDING OF LEGACIES.

Refund of a legacy paid under Judge's orders.

CCCXVI. When an executor has paid a legacy under the order of a Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

No refund if a legacy be paid voluntarily.

CCCXVII. When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

Refund when legacy has become due on the performance of a condition within any further time allowed under Section 124.

CCCXVIII. When the time prescribed by the Will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under Section CXXIV., for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

When each legatee is compellable to refund in proportion.

CCCXIX. When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

CCCXX. Where an executor or administrator has given such notices as would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may follow assets.

Within what period a creditor may call upon a legatee to refund.

CCCXXI. A creditor who has not received payment of his debt may, within two years after the death of the testator, or one year after the legacy has been paid, call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies: and whether the payment of the legacy by the executor was voluntary or not.

When a legatee who has not received payment or who has been compelled to refund under Section 321, cannot oblige one who has received payment in full to refund.

CCCXXII. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding Section, can not oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When an unsatisfied legatee must proceed against executor, if he be solvent.

CCCXXIII. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but if the executor is insolvent, or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit to the refunding of one legatee to another.

CCCXXIV. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

Illustration.

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

CCCXXV. The refunding shall in all cases be without interest.

Residue of the deceased's property after usual payments, to be paid to residuary legatee.

CCCXXVI. The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the Will.

PART XL.

OF THE LIABILITY OF AN EXECUTOR OF ADMINISTRATOR FOR DEVASTATION.

Liability of executor or administrator for devastation.

CCCXXVII. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Illustrations.

(*a*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(*b*) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(*c*) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of the deceased's property.

CCCXXVIII. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

(*a*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(*b*) The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount.

PART XLI.

MISCELLANEOUS.

CCCXXIX. Repealed by Act VII. of 1870.

CCCXXX. Repealed by Act XXIV 1867.

Succession to property of Hindus, Muhammadans, or Buddhists and certain Wills Intestacies, and marriages not affected by this Act.

CCCXXXI. The provisions of this Act shall not apply to Intestate or Testamentary succession to the property of any Hindu, Muhammadan, or Buddhist; nor shall they apply to any Will made, or any intestacy occurring, before the first day of January 1866. The fourth Section shall not apply to any marriage contracted before the same day.

Power of the Governor-General in Council to except any race, sect, or tribe in British India from the operation of this Act.

CCCXXXII. The Governor-General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect, or tribe in British India, or any part of such race, sect, or tribe, to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor-General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the Gazette of India.

SCHEDULE.

Repealed by Act VII. of 1870.

ACT No. XI. OF 1865.*

(Received the assent of the Governor-General on the 15th March.)

1. Interpretation Clause. Number. Gender. "Judge." "Section." "Court of Small Causes." "Local Government." "High Court."

2. Repeal of Acts XLII. of 1860, and XII. of 1861.

3. Constitution of Small Cause Courts. Limits of their territorial jurisdiction to be fixed by Local Government.

4. Seal of the Court. Courts to be generally subject to the High Court.

* Act X of 1867 to the road as part of this Act.

5. Places where Courts to be held.

6. Suits cognizable by Small Cause Courts. Proviso.

7. Power to extend jurisdiction of Small Cause Courts to Rupees 1,000.

8. Jurisdiction of the Courts.

9. Suits against Government.

10. Suits against the Secretary of State.

11. Substituted service of summons.

12. Suits cognizable by a Court of Small Causes not to be heard by any other Court having jurisdiction within the local limits. Saving of jurisdiction of Magistrates as to debts. Of Village Moonsiffs and Village or District Punchayats in Madras. Of Military Courts of Requests. Of Officers appointed to try small suits in Madras and Bombay. Or of Military Punchayats in Madras.

13. Judge of Court.

14. Power to Judge of several Courts to fix times and dates of circuits and sittings.

15. Local Government may invest any person, for a limited period, with powers of Judge of Court of Small Causes. Powers to be exercised by persons so invested.

16. Jurisdiction to be exercised by persons so invested in Court in which there is a Judge.

17. Remuneration of Judges and of persons invested with powers of Small Cause Court Judge and restriction from practising within the limit.

18. Summons.

19. In suits congnizable by Small Cause Courts, Court may on the judgment-creditor's application direct immediate execution against judgment-debtor's person or moveable property..

20. Execution against immoveable property, if moveable property be not sufficient.

21. Decision in suits tried under this Act to be final. Ex parte decree may be set aside. New trial. On deposit of debt and costs.

22. Power to refer questions of law. &c., to High Court.

23. Power to pass decree contingent upon the opinion of the High Court.

24. High Court to fix day for the hearing.

25. Parties may appear and be heard in person or by Pleader.

26. Decision of High Court to be transmitted.

27. Costs of reference High Court.

28. Power to High Court to alter or set aside order or decree made in the matter.

29. Power to appoint one of the Courts of a District to be the principal Court.

30. Judge of Principal Court may sit with Judge of any other Court in the District for the trial of reserved suits.

31. Local Government may make Rules providing that two Judges shall sit together for trial of certain suits.

32. Procedure when two Judges differ on a point of law.

33. Casting voice in case of difference between two Judges on a question of fact.

34. Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

35. Appointment of Registrar.

36. Duties of Registrar.

37. Procedure where Registrar thinks plaint defective in certain particulars. Proviso.

38. Registrar may receive and enter up Judgments by confession. Proviso.

39. Execution of decrees by Registrar.

40. Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

41. Hearing of suits cognizable by Registrar. Transfer from Registrar's to Judge's file.

42 No appeal from decision of Registrar under last Section; but in cases of doubt, he may submit statement for opinion of Judge. Provisions applicable to such reference.

43 Setting aside decree by a Registrar under Section 38.

44. Appointment and removal of Clerk of the Court.

45. Duties of Clerk.

46. High Court empowered to make rules of practice. &c.

47. Provisions of Section 26 of Act X. of 1862, and of Act VIII. of 1859, made applicable to cases cognizable under this Act.

48. Saving of Act XI. of 1841, Section 17.

49. Saving of jurisdiction of Courts of Requests.

50. Reference in previous Acts to Act XLII. of 1860 to be read as applying to this Act.

51. Power to give a Small Cause court Judge the powers of a Principal Sudder Ameen or a Magistrate.

52. Power to give Small Cause Court Judge jurisdiction to hear claims under X. *of* 1859.

53. Small Cause Courts to furnish records &c., called for by Local Government or High Court.

An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil Jurisdiction of the High Courts of Judicature.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil Jurisdiction of the High Courts of Judicature; It is enacted as follows;—

Interpretation Clause.

I. In this Act, unless there be something repugnant in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

Gender.

Words importing the masculine gender include females.

"Judge."

"Judge" includes an Acting Judge.

"Section."

"Section" means a Section of this Act.

"Court of Small Causes."

"Court of Small Causes" means a Court constituted under this Act.

"Local Government."

"High Court."

And, in every part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part, and "High Court" denotes the Highest Civil Court of Appeal having jurisdiction therein.

Repeal of Acts XLII. of 1860, and XII. of 1861.

II. Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and Act XII. of 1861 (*to amend Act XLII. of* 1860) are hereby repealed: Provided that any Courts of Small Causes now in existence which shall have been constituted under Act XLII. of 1860, shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII. of 1860, or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein; and all suits and proceedings pending in any such Courts shall be heard and determined in the same manner as suits and proceedings are required to be heard and determined under this Act; but this Act shall not in any way invalidate or alter the effect of anything which shall have been done in any such suit or proceeding prior to the commencement of this Act.

Constitution of Small Cause Court.

Limits of their territorial jurisdiction to be fixed by Local Government.

III. The Local Government may, with the previous sanction of the Governor-General of India in Council, constitute, for the trial of suits under this Act, Courts of Small Causes, with such establishment of officers as may be necessary, at any places within the Territories under such Government. Whenever a Court of Small Causes shall be so constituted, the Local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to time alter the limits so fixed. The Local Goverment may abolish any Court of Small Causes.

Seal of the Court.

IV. Every Court of Small Causes shall use a seal bearing the following inscription in English and in the language of the Court—"Court of Small Causes of ,"—and shall be subject to the General control and orders of the High Court.

Courts to be generally subject to the High Court.

Places where Courts to be held.

V. Courts of Small Causes shall be held at such place or places within the local limits or their respective jurisdictions, as shall from time to time be appointed by the Local Government.

VI. The following are the suits which shall be cognizable by Courts of Small Causes, namely, claims for money due on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees whether on balance of account or otherwise: Provided that no action shall lie in any such Court—

Suits cognizable by Small Cause Courts.

Proviso.

(1.) On a balance of partnership account, unless the balance shall have been struck by the parties or their agents:

(2.) For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will:

(3.) For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury:

(4.) For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the Local Government with jurisdiction over claims to such arrears.

VII. The Local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section and thereby made cognizable by Courts of Small Causes, to an amount not exceeding one thousand Rupees.

Power to extend jurisdiction of Small Cause Courts to Rupees 1,000.

VIII. Courts of Small Causes may try all such suits as are described in Section VI. and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court; or if the cause of action arose whithin the said local limits, and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Jurisdiction of the Courts.

Explanation.—(*a.*) Where a person has apermanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(*b.*) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office in respect of any cause of action arising at such place.

(*c.*) The business contemplated in this Section must be carried on at some fixed place for at least a certain time.

IX. Suits against the Local Government or against the Government of India shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

Suits against Government.

X. Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose.

Suits against the Secretary of State.

XI. Service of a summons issued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain, shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service, personally carries on the business or works for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

Substituted service of summons.

XII. Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of Small Causes: Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a peason exercising the powers of a Magistrate, or an Assistant or Deputy Magistrate, can now exercise in regard to debts or other claims of a Civil nature; or the jurisdiction which can be exercised by Village Moonsiffs, or Village or District Punchayats, under the provisions of the Madras Code; or by Military Courts of Requests, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III. of 1859 (*for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates and for constituting those Officers Registrars of Deeds*); or by a single Officer duly authorized and appointed under the Rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazaars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively; or by Punchayats in regard to suits against Military persons, according to the Rules in force in the Presidency of Madras.

Suits cognizable by a Court of Small Cause not to be heard by any other Court having jurisdiction within the local limits.

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Punchayats in Madras.

Of Military Courts of Requests.

Of Officers appointed to try small suits in Madras and Bombay.

Or of Military Punchayats in Madras.

XIII. Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the Local Government, who shall receive such

Judge of Court.

salary as the Governor-General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts, as the Local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil Jurisdiction except under the provisions of this Act.

Power to Judge of several Courts to fix times and dates of circuits and sittings.

XIV. It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority, the times at which he will go on Circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette and at such places and in such manner as the Local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

Local Government may invest any person, for a limited period, with powers of Judge of Court of Small Causes.

Powers to be exercised by persons so invested.

XV. The Local Governmment may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period, or for specific periods in each year only, and declare in what Court or Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the Local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under Section XXX.

Jurisdiction to be exercised by persons so invested in Court in which there is a Judge.

XVI. If it shall be declared by the Local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under Section XIII., the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The Local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court it may be declared that such person shall exercise his powers, and, generally for regulating and defining the duties and relalative positions of Judges of Courts of Small Causes and persons so invested as aforesaid: Ppovided always that no such Rule shall be in any way inconsistent with the provisions of this Act.

Remuneration of Judges and of persons invested with powers of Small Cause Court Judge, and restriction from practising within the limits.

XVIII. Every person invested with the powers of a Judge of a Court of Small Causes under Section XV. shall receive such remuneration as the Governor-General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barister, Attorney, Vakeel, Pleader, or Law Agent in any District or place within the territorial limits of which he is empowered to exercise the powers with which he is invested.

Summons.

XVIII. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

In suits cognizable by Small Cause Court, Court may on the judgment-creditor's application direct immediate execution against the judgment-debtor's person or moveable property.

XIX. When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the moveable property of the judgment-debtor within the same limits. If the warrant be directed against the moveable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

Execution against immoveable property, if moveable property be not sufficient.

XX. In the execution of a decree under this Act, if, after the sale of the moveable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immoveable property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immoveable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules, and mode of procedure in like cases.

Decisions in suits tried under this Act to be final.

Ex parte decree may be set aside.

XXI. In suits tried under this Act, all decisions and orders of the Court shall be final: Provided that in any case in which a decree shall be passed *ex parte* against a defendant, he may, within thirty days after any process for enforcing the decree has been executed, give notice to the Court by which the decree was passed of his intention to apply to the Court at its next sitting for an order to set it aside:

and if, on the application being made to the Court at its next sitting, it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree and shall appoint a day for proceeding with the suit, upon such terms as to costs or otherwise as shall to the Court seem proper: Provided also that it shall be competent to the Court, if it shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Court be given to the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs, if any, of the opposite party.

New trial.

On deposit of debt and costs.

XXII. If, in the trial of any suit under this Act, any question of law, or usage having the force of law, or any question as to the construction of a document which construction may affect the merits of the decision, shall arise, the Court, in suits for an amount not exceeding five hundred Rupees, may, either of its own motion or on the application of any of the parties to the suits, and in suits for an amount greater than five hundred Rupees shall, draw up a statement of the case and refer it, with the Court's own opinion, for the decision of the High Court.

Power to refer questions of law, &c., to High Court.

XXIII. The Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of the order of the High Court.

Power to pass decree contingent upon the opinion of the High Court.

XXIV. The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court-house.

High Court to fix day for the hearing.

XXV. The parties to the case may appear and be heard in the High Court in person or by Pleader.

Parties may appear and be heard in person or by Pleader.

XXVI. The High Court, when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy, proceed to dispose of the case conformably to the decision of the High Court.

Decision of High Court to be transmitted.

XXVII. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Costs of reference to High Court.

XXVIII. When a case is referred to the High Court under Section XXII., the High Court may alter, cancel or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

Power of High Courts to alter or set aside order or decree made in the matter.

XXIX. Whenever more Courts than one are constituted in any District under this Act, the Local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

Power to appoint one of the Courts of a District to be the Principal Court.

XXX. The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Judge of Principal Court may sit with Judge of any other court in the District for the trial of reserved suits.

XXXI. The Local Government may from time to time make Rules providing that in such cases as shall be prescribed in such Rules, two Judges or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Local Government may make Rules providing that two Judges shall sit together for trial of certain suits.

XXXII. If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court: but if they shall differ on a point of law, or usage having the force of law, or in construing a document the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in Section XXII. of this Act; and the provisions applicable to a reference to the High Court, contained in Sections XXII., XXIII., XXIV., XXV., and XXVI. of this Act, shall be applicable to every reference made under this Section.

Procedure when two Judges differ on a point of law.

XXXIII. If two Judges differ on any matter other than the matters above-mentioned, the Judge who is senior in respect of date of appointment as a Judge of Court of Small Causes shall have the casting voice.

Casting voice in case of difference between two Judges on a question of fact.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

XXXIV. If a Judge and a person invested with the powers of a Judge as aforesaid, differ on any matter other than the matters abovementioned, the Judge shall have the casting voice.

Appointment of Registrar.

XXXV. It shall be lawful for the Local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor-General of India in Council.

Duties of Registrar.

XXXVI. The Registrar of every Court of Small Causes shall be the Chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under Section XXI.

Procedure where Registrar thinks plaint defective in certain particulars.

XXXVII. If, when the Judge is absent on duty and there is no person invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Sections XXVII. to XXXII., both inclusive, of the Code of Civil Procedure, he may reject the same. But it shall be lawful for the Judge or for any person invested with the powers of a Judge as aforesaid, to reject any plaint which may have been received by the Registrar, and to receive any plaint which may have been rejected by him: Provided that such reception or rejection, as the case may be, by the Registrar, shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

Proviso.

Registrar may receive and enter up judgments by confession.

XXXVIII. If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff; Provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

Proviso.

Execution of decrees by Registrar.

XXXIX. The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person empowered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

XL. The Local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed twenty Rupees. The Registrar shall exercise such powers subject to the general control of the Judge, or when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

Hearing of suits cognizable by Registrar.

XLI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine and execute the same respectively: Provided that the Judge, or, when there is no Judge, the person invested with the powers of a Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

Transfer from Registrar's to Judge's file.

No appeal from decision of Registrar.

XLII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard of disposed or by him; but in any case in which

the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge, of the person invested with the powers of a Judge as aforesaid, in like manner as the Judge may, under Section XXII. of this Act, state a case for the opinion of the High Court; and all the provisions herein contained, relative to the stating of a case by the Judge, shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

under last Section; but in cases of doubt, he may submit statement for opinion of Judge.

Provisions applicable to such reference.

XLIII. A decree passed by a Registrar under Section XXXVIII. may be set aside by the Judge of the Court. or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only as it might be set aside if it were a decree passed at the hearing of the cause by the Judge or other person empowered as aforesaid.

Setting aside decree by a Registrar under Section 38.

XLIV. An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor-General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority. The Registrar of any Court of Small Causes may also be the Clerk of the Court.

Appointment and removal of Clerk of the Court.

Duties of Clerk.

XLV. When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar, if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all monies payable or paid into or out of Court, and shall enter an account of all such monies in a book belonging to the Court to be kept by such Clerk for that purpose.

High Court empowered to make rules of practice, &c.

XLVI. The High Court shall have power to make and issue general Rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms for every proceeding in the said Courts for which it shall think that forms should be provided, and for keeping all books, entries and accounts to be kept by the Officers, and from time to time to alter any such Rule or form; provided that such Rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

XLVII. * * * *
* * * except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act. *

Provisions of Section 26 of Act X. of 1862, and of Act VIII. of 1859, made applicable to cases cognizable under this Act.

Saving of Act XI. of 1841, Section 17.

XLVIII. Nothing in Section II. of the said Act No. III. of 1859, or Sections VI., VII. and VIII. of Act No. XXII. of 1864 (*to make provision for the Administration of Military Cantonments*), relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act No. XI. of 1841, (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company*) as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

Saving of jurisdiction of Courts of Requests.

XLIX. Nothing in this Act, nor in Sections VI., VII. and VIII. of the said Act XXII. of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under Section CIII. of the Statute 27 Vic., cap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer under any such Statute to assemble such Courts.

Reference in previous Acts to Act XLII. of 1860 to be read a applying to this Act.

L. When in any Act, passed prior to the coming into operation of this Act, reference is made to Act XLII. of 1860, such reference shall be read as applying to this Act, and when any procedure is directed to be in accordance with the provisions of Act XLII. of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

Power to give a Small Cause Court Judge the powers of a Principal Sudder Ameen or a Magistrate.

LI. Whenever the state of business in any Court of Small Causes the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the Local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge, with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder Ameen, or, in the Non-Regula-

* The words omitted from this section have been repealed by Act VII. of 1870.

Power to give Small Cause Court Judge jurisdiction to hear claims under Act X. of 1859.

tion Provinces, with the powers of an Officer exercising the like or nearly the like powers as those of a Principal Sudder Ameen.

LII. In the places in which the provisions of Act X. of 1859 (*to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal*) are in force, the Local Government may empower any Judge of a Court of Small Causes to hear and determine, under the rules contained in the said Act X. of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X. of 1859 except the power of hearing appeals.

Small Cause Courts to furnish records, &c, called for by Local Government or High Court.

LIII. Courts of Small Causes shall comply with such requisitions as may from time to time be made by the Local Government or the High Court for records, returns and statements in such form and manner as such Government or Court may deem proper.

ACT No. XIII. OF 1865.*

(*Received the assent of the Governor-General on the 21st March.*)

PRELIMINARY.

Short title.

Interpretation Clause. "High Court." "Chief Justice." "Judge" &c "Magistrate." "Clerk of the Crown." "British India." Gender and Number

OF CHARGES WHERE THE ACCUSED IS COMMITTED IN A PRESIDENCY TOWN.

3. Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil Jurisdiction.

4. Clerk of the Crown to consider, and if he like, to amend, alter, or add to the charge. Charge with amendments, alterations or additions, if any, to be recorded.

5. Accused to have copies of examinations.

6. Effect of charge.

7. Provisions of Act XVIII. of 1862 as to indictments to apply to charges preferred under this Act.

8. Nolle prosequi on unsustainable charge.

OF GRAND JURIES.

9. After commencement of this Act, Grand Jury not to be summoned.

10. No one to be charged on the presentment or inquisition of Grand Jurors, unless they have been summoned before the commencement of this Act.

OF JURIES IN PRESIDENCY TOWNS.

11. Certain trials to be held before Special Jurors.

12. The Jurors' Book for the current year, to be taken as giving the first list of Jurors and Special Jurors.

13. The number of Special Jurors in the first list to be allowed to die down to two hundred. After which the number of Special Jurors not to exceed two hundred.

14. Special Jurors exempted from serving on common Juries.

15. Preparation of lists of Jurors and special Jurors.

16. Officer preparing the lists to have full discretion: no appeal from his decision.

17. Lists of Jurors to be published in the Gazette.

18. Jurors and Special Jurors to be summoned for each Sessions.

OF CHALLENGES OF JURORS IN THE PRESIDENCY TOWNS.

19. Challenges.

20. Judge to try challenge.

21. High Court to retain its present jurisdiction as to Jurors in the Presidency Towns except as altered by this Act.

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* See Act XVI, 1866 as to Secs. to 22 and 24.

OF SITTINGS UNDER A COMMISSION.

22. Jurisdiction of Judge acting under Commission from Governor-General of India in Council.

23. Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

24. Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

25. High Court may allot jurisdiction to Judge acting under Commission.

26. Commission to specify time and place during and in which it shall remain in force.

27. Power to appoint an Associate Judge.

28. Charge to be delivered with record of preliminary enquiry without the local limits of the ordinary original Civil jurisdiction.

29. The charge shall be deemed a charge under the Code of Criminal Procedure. If unsustainable, the proceedings may be stayed.

30. Procedure pending directions of High Court.

31. High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

32. Jurisdiction over European British subjects tried under Commission. Code of Criminal Procedure to apply to the trial of such subjects except as hereinafter declared.

33. Jurisdiction over persons not European British subjects tried under Commission.

34. Trials under Commission to be by Jury.

35. Summoning of Jurors to serve on trials under Commission. Military men not exempt.

36. Jury for trial of European British subjects.

37. Number of Jury requisite to a verdict of guilty.

38. Acts not of a judicial nature may be done by Clerk of the Crown.

39. Portions of Sec. 380 of Criminal Procedure Code not to apply to sentences by a High Court Judge.

40. Portion of 26th Chapter of the Code of Criminal Procedure not to apply to sentences of High Court Judge.

41. Power to reserve for High Court any question of law or evidence. Procedure where no such question reserved.

42. Save as aforesaid, the Criminal Procedure Code to apply to Juries under Commission.

43. High Court Judge may direct Associate Judge to try any one triable under Commission, not an European British subject.

44. Power of the Governor-General of India in Council to appoint a Barrister to hold sittings underCommission at places not herein before refered to.

45. Commencement of Act.

46. Act not to extend to the Straits Settlement.

An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original Criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.

Preamble.

Whereas it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original Criminal jurisdiction, and also to provide for the exercise by such Courts of original Criminal jurisdiction under the Commission of the Governor-General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit; It is enacted as follows :—

PRELIMINARY.

Short title.

I. This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865.

Interpretation Clause.

II. In this Act, unless there be something repugnant in the subject or context—

"High Court."

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, and Madras, and at Bombay, respectively.

"Chief Justice," "Judge," &c.

"Chief Justice" "Judge" "Registrar" and other words denoting any particular Officer, respectively include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown."

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor, and any Officer specially appointed by the Governor-General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under a Section XLIV. of this Act.

"British India.

"British India" denotes the Territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Islands, Singapore, and Malacca.

Gender and Number.

Words importing the masculine gender include females: words in the singular number include the plural, and words in the plural number include the singular.

OF CHARGES WHERE THE ACCUSED IS COMMITTED IN A PRESIDENCY TOWN.

Charges to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil jurisdiction.

III. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to law, may be dealt with as if it had been committed within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Clerk of the Crown to consider and, if he like, to amend, alter, or add to the charge.

Charge with amendments, alterations or additions if any, to be recorded.

IV. The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments alterations or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge, with such amendments, alterations, additions, if any, gratis.

Accused to have copies of examinations.

V. The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

VI. Upon charges recorded as aforesaid, person committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and, subject to the provisions contained in Section VIII. of this Act, shall be arraigned at the suit of the Crown, and the verdict shall be recorded thereupon.

Provisions of Act XVIII. of 1862 as to indictments to apply to charges preferred under this Act.

VII. In Act XVIII. of 1862 (*to repeal Act XVI. of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature,*) the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

Nolle prosequi on unsustainable charge.

VIII. When any such charge shall have been recorded in the High Court as aforesaid, and shall, at any time before the person charged is arraigned, appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

OF GRAND JURIES.

After commencement of this Act, Grand Jury not to be summoned.

IX. From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors, unless they have been summoned before the commencement of this Act.

X. No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

OF JURIES IN PRESIDENCY TOWNS.

XI Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

Certain trials to be held before Special Jurors.

XII. The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List" shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The Jurors' Book for the current year to be taken as giving the first list of Jurors and Special Jurors.

XIII. The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the "Special Jurors' List."

The number of Special Jurors in the first list to be allowed to die down to two hundred.

After which the number of Special Jurors not to exceed two hundred.

XIV. All persons whose names are entered in the "Special Jurors' List" shall be exempted from serving on any other than Special Juries.

Special Jurors exempted from serving on common Juries.

XV. The Clerk of the Crown, or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall before the fifteenth day of April which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent fifteenth day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

Preparation of lists of Jurors and Special Jurors.

XVI. The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from, or review of, his decision.

Officer preparing the lists to have full discretion: no appeal from his decision.

XVII. The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Lists of Jurors to be published in the Gazette.

XVIII. Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Jurors and Special Jurors to be summoned for each Sessions.

OF CHALLENGES OF JURORS IN THE PRESIDENCY TOWNS.

XIX. Peremptory challenge, to the number of twenty in Common Juries and then in Special Juries, shall be allowed; but there shall be no challenge to the array, and save as aforesaid, the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

Challenges.

(1.) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

XX. The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

Judge to try challenge.

XXI. Save as hereinafter provided, the High Court shall retain all its present powers respecting the summoning, empannelling, qualification, challenging, and service of Jurors in the Presidency Towns; and shall have power to make such

High Court to retain its present jurisdiction as to Jurors in Presi-

deney Town except as altered by this Act.

rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall, so far as they are not inconsistent with this Act, remain in full force until repealed or altered by new rules made under this Section.

OF SITTINGS UNDER A COMMISSION.

Jurisdiction of Judge acting under Commission from Governor-General of India in Council.

XXII. *From and after the commencement of this Act*, whenever it shall appear to the Governor-General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor-General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting but, subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the XXVIIIth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

XXIII. *From and after the commencement of this Act*, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the XXVIIIth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

XXIV. *From and the after the commencement of this Act*,* whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether whithin or without the Presidency of Bombay, other than the usual place of sitting of such Court or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commissiom in the places and manner therein directed shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the XXVIIIth and following Sections of this Act.

High Court may allot jurisdiction to Judge acting under Commission.

XXV. The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

Commission to specify time and place during and in which it shall remain in force.

XXVI. Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which, and the Districts or places within which, such Commission shall remain in force; and such time and the limits of such Districts or places shall be notified in the Official Gazette.

Power to appoint an Associate Judge.

XXVII. The Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may, by such Commission as

*. The words italicised in this and the two preceding sections and in section 44 have been repealed by Act XVI of 1870.

aforesaid, associate with such Judge of the High Court any Barrister-at-Law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Charge to be delivered with record of preliminary enquiry without the local limits of the ordinary original Civil jurisdiction.

XXVIII. Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil Jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits, shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him, stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in Section IV., and the person charged shall be entitled to copies in like manner as he would be entitled to copies under Section V. of this Act. If a commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent to the Clerk of the Crown shall be sent, to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

The charge shall be deemed a charge under the Code of Criminal Procedure.

XXIX. The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge, whether amended, altered, or added to as last aforesaid, or not, shall have the same effect as, and be deemed to be, a charge under Sections VI., VII., and VIII. of this Act.

If unsustainable, the proceedings may be stayed.

Procedure pending directions of High Court.

XXX. Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in Section XXVIII. of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal Jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal jail shall keep such person in safe custody until discharged in due course of law.

High Court may order European British subjects committed in certain Districts in certain seasons

XXXI. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular

of the year to be tried at a particular place and confined in a particular jail.

place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct, further, that the notice required by Section XXVIII. of this Act to be given, and the papers required by that Section to be sent, to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under Section XXVIII. of this Act.

Jurisdiction over European British subject tried under Commission.

XXXII. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to the trial of such subjects except as hereinafter declared.

Jurisdiction over persons not European British subjects tried under Commission.

XXXIII. The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he think fit, have and exercise the same jurisdiction, power, and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned, as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Trials under Commission to be by Jury.

XXXIV. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Summoning of Jurors to serve on trials under Commission.

XXXV. Whenever the Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections CCCXXXVI. to CCCXL., both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service, resident within ten miles of its place of sitting, as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned, shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty, or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid, shall be formed, in the manner required by the Code of Criminal Procedure and by this Act, from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

Jury for trial of European British subjects.

XXXVI. If the person charged shall be a European British subject and shall so require before the jury shall be empannelled, the majority of the Jurors

shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Number of Jury requisite to a verdict of guilty.

XXXVII. On every trial mentioned in Section XXXIV. of this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority, and concurrence, the prisoner shall be acquitted.

Act not of a judicial nature may be done by Clerk of the Crown.

XXXVIII. During the trial of any person before a Judge of the High Court acting under Commission as aforesaid, or before a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Portions of Sec. 380 of Criminal Procedure Code not to apply to sentences by a High Court Judge.

XXXIX. So much of Section CCCLXXX. of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portion of 26th Chapter of the Code of Criminal Procedure not to apply to sentences of High Court Judge.

XL. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Power to reserve for High Court any question of law or evidence.

XLI. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence, which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner, with a copy of his sentence and a warrant for the execution of the same, to the Magistrate or other Officer in charge of the jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the District in which the trial took place, in like manner as is directed by Section CCCLXXXIII. of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

Procedure where no such question reserved.

Save as aforesaid, the Criminal Procedure Code to apply to Juries under Commission.

XLII. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

High Court Judge may direct Associate Judge to try any one triable under Commission, not an European British subject.

XLIII. If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated, without exception, by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the District in which the trial was held. Any person, other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the

time for which the Commission remains in force shall be tried by the Court of Session to which he was committed or bailed, as if this Act had not passed.

Power of the Governor General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

XLIV. *From and after the commencement of this Act*, it shall be lawful for the Governor-General of India in Council by his Commission to authorize and direct any Barrister-at-Law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in Sections XXII., XXIII., and XXIV. of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

XLV. Repealed by Act XIV. of 1870.
XLVI. Ditto. ditto.

ACT No. XIV. OF 1865.*

(*Received the assent of the Governor-General on the 7th April.*)

1. Short title.
2. Interpretation Clause. "Assistant Commissioner."
3. "District." "Division."
4. Grades of Courts in the Central Provinces.
5. Chief Commissioner may declare grade to which a Tahsildar or Assistant Commissioner belongs.
6. Chief Commissioner may give Naib Tahsildars jurisdiction up to fifty rupees.
7. Jurisdiction of Court of Tahsildar of the second class.
8. Jurisdiction of Court of Tahsildar of the first class.
9. Jurisdiction of Court of Assistant Commissioner of the third class.
10. Jurisdiction of Court of Assistant Commissioner of the second class.
11. Jurisdiction of Court of Assistant Commissioner of the first class
12. Jurisdiction of Court of Deputy Commissioner.
13. Jurisdiction of Court of Commissioner.
14. Jurisdiction of Court of Judicial Commissioner.
15. Time for presenting appeals.
16. Government may invest any one with powers of Commissioner, or of Deputy Commissioner.
17. Court in which suit shall be instituted.
18. Appeal to lie from all decisions except when expressly prohibited.
19. The Deputy Commissioner may distribute business among the Courts subordinate to him.
20. Transfer of suits from subordinate to Commissiner's or Deputy Commissioner's Court.
21. The Judicial Commissioner may transfer suits from one subordinate Court to another.
22. Suits for immoveable property situate in different Districts.
23. Suits for immoveable property situate in Districts subject to different Commissioners.
24. Commencement of Act.
25. Act may be extended to Oude.

An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.

Preamble.

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces; It is enacted as follows :—

Short title.

I. This Act shall be called "The Central Provinces Courts' Act, 1865."

Interpretation Clause. "Assistant Commissioner."

II. In this Act—

"Assistant Commissioner" includes Extra Assistant Commissioner.

* Act XXVII. 1867 is to be read as part of this Act.

III. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

"District."

"Division."

IV. There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely :—

Grades of Courts in the Central Provinces.

(1.) The Court of the Tahsildar of the second class.
(2.) The Court of the Tahsildar of the first class.
(3.) The Court of the Assistant Commissioner of the third class.
(4.) The Court of the Assistant Commissioner of the second class.
(5.) The Court of the Assistant Commissioner of the first class.
(6.) The Court of the Deputy Commissioner.
(7.) The Court of the Commissioner.
(8.) The Court of the Judicial Commissioner.

V. Subject to any orders that may from time to time be issued by the Local Government, the Chief Commissioner shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

Chief Commissioner may declare grade to which a Tahsildar or Assistant Commissioner belongs.

VI. The Chief Commissioner may, with the sanction of the Local Government, invest any Naib Tahsildar with power to try and determine suits for money due, whether on bond or other contract, or for rent, or for personal property or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of fifty rupees, and to prescribe the local limits within which the Naib Tahsildar so invested shall exercise such power.

Chief Commissioner may give Naib Tahsildars jurisdiction up to fifty rupees.

VII. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding one hundred rupees in value or amount.

Jurisdiction of Court of Tahsildar of the second class.

VIII. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding three hundred rupees in value or amount.

Jurisdiction of Court of Tahsildar of the first class.

IX. The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding five hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the third class.

X. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

XI. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five thousand rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

XII. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third, and fourth grades, and of Naib Tahsildars invested as aforesaid.

Jurisdiction of Court of Deputy Commissioner.

XIII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades.

Jurisdiction of Court of Commissioner.

XIV. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Porcedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Jurisdiction of Court of Judicial Commissioner.

XV. The memorandum of appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum of appeal within the said period ; that is to say, thirty days if the appeal lie to the Deputy Commissioner ; six weeks if the appeal lie to the Commissioner of a Division ; and ninety days if the appeal lie to the Judicial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Applications for special appeal shall be

Time for presenting appeals.

presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for appeals.

Government may invest any one with powers of Commissioner, or of Deputy Commissioner.

XVI. Whenever the state of the public business requires it, the Local Government shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Central Provinces.

Court in which suit shall be instituted.

XVII. Every suit shall be instituted in the Court of the lowest grade competent to try it : Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Appeal to lie from all decisions except when expressly prohibited.

XVIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

The Deputy Comissioner may distribute business among the Courts subordinate to him.

XIX. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit : Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Transfer of suits from subordinate to Commissioner's or Deputy Commissioner's Court.

XX. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court, competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

The Judicial Commissioner may transfer suits from one subordinate Court to another.

XXI. The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

Suits for immoveable property situate in different Districts.

XXII. If the suit be for any immoveable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of such property is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit ; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

XXIII If the District Courts within the limits of whose jurisdiction the immoveable property is situate are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the Division to whom the District Court in which the suit is brought is subordinate, and the Commissioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

Commencement of Act.

XXIV. This Act shall commence and come into operation on the first day of May 1865.

Act may be extended to Oude.

XXV. The Governor-General of India in Council may, by an order to be puplished in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect the provisions of Act XVI. of 1865 (*to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits*). On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie, as at present, to the Court of the Judicial Commissioner.

ACT No. XV. OF 1865.

(Received the assent of the Governor-General on the 7th April.)

I.—PRELIMINARY.

1. Short title.
2. Interpretation Clause. "Number." "Priest." "Marriage." "Husband" and "Wife." "Section." "Chief Justice." "Court." "British India." "Local Government." "High Court."

II.—OF MARRIAGES BETWEEN PARSEES.

3. Requisites to validity of Parsee marriage.
4. Remarriage, save after divorce, unlawful during life-time of first wife or husband.
5. Punishment of bigamy.
6. Certificate and registry of marriages.
7. Appointment of Registrar.
8. Marriage register to be open for public inspection.
9. Penalty for solemnizing marriage contrary to Section 4.
10. Penalty for Priest's neglect of requirements of Section 6.
11. Penalty for omitting to subscribe and attest the certificate.
12. Penalty for making, &c., false certificate.
13. Penalty for failing to register certificate.
14. Penalty for secreting, destroying or altering the register.

III.—OF PARSEE MATRIMONIAL COURTS.

15. Constitution of special Courts under this Act.
16. Parsee Chief Matrimonial Courts.
17. Parsee District Matrimonial Courts.
18. Power to alter territorial jurisdiction of District Courts.
19. Certain Districts to be within the jurisdiction of the Chief Matrimonial Court.
20. Court Seal.
21. Appointment of Delegates.
22. Power to appoint new Delegates.
23. Delegates to be deemed public servants.
24. Selection of Delegates under Sections 16 and 17 to be from those appointed under Section 21.
25. Practitioners in Matrimonial Courts.
26. Courts in which suits to be brought. When defendant has left British India.

IV.—OF MATRIMONIAL SUITS.

(*a.*) For a decree of Nullity.

27. In case of lunacy or mental unsoundness.
28. In case of non-consummation owing to physical causes.

(*b*) For a decree of Dissolution in Case of Absence.

29. In case of absence for seven years.

(*c.*) For Divorce or Judicial Separation.

30. On the ground of the wife's adultery. On the ground of the husband's adultery, &c.
31. Grounds of judicial separation.
32. Suits for divorce or judicial separation.
33. Alimony pendente lite.
34. Permanent alimony.
35. Payment of alimony to wife or to her trustee.

(*d.*) For Restitution of Conjugal Rights.

39. Suit for restitution of conjugal rights.
37. No suits to be brought to enforce marriage or contract arising out of marriage when husband under 16 years or wife under 14 years.
38. Suit may be heard with closed doors.
39. Stamps on plaints and petitions.
40. Provisions of Civil Procedure Code to apply in suits under this Act.
41. Determination of questions of law and procedure, and of fact.
42. Appeal to High Court.
43. Liberty to the parties to marry again.

V.—OF THE CHILDREN OF THE PARTIES.

44. Custody of children pendente lite. *Orders as to custody of children after final decree.*

45. Settlement of wife's property for benefit of children.

VI.—OF THE MODE OF ENFORCING PENALTIES UNDER THIS ACT.

46. Cognizance of offences under this Act.

47. Punishment of offences under this Act, committed within local limits of High Court.

48. Levy of fines by distress.

49. Procedure until return is made to distress warrant.

50. Imprisonment if no sufficient distress.

VII.—MISCELLANEOUS.

51. Rules of procedure of Parsee Matrimonial Courts to be made by the High Court.

52. Power to invest Chief Executive Officer with powers of Local Government.

53. Commencement and extent of Act.

An Act to define and amend the law relating to Marriage and Divorce among the Parsees.

Preamble.

Whereas the Parsee community has represented the necessity of defining and amending the law relating to Marriage and Divorce among Parsees; And Whereas it is expedient that such law should be made conformable to the customs of the said community; It is enacted as follows :—

I.—PRELIMINARY.

Short title.

I. This Act may be cited as "The Parsee Marriage and Divorce Act, 1856."

Interpretation Clause.

II. In this Act, unless there be something repugnant in the subject or context—

Number."

Words in the singular number include the plural and words in the plural number include the singular.

"Priest."

"Priest" means a Parsee Priest and includes Dastúr and Mobed.

"Marriage."

"Marriage" means a marriage between Parsees whether contracted before or after the commencement of this Act; and "Husband" and "Wife" respectively mean a Parsee husband and a Parsee wife.

"Husband" and "Wife."

"Section."

"Section" means a Section of this Act.

"Chief Justice."

"Chief Justice" includes Senior Judge.

"Court."

"Court" means a Court constituted under this Act.

"British India."

"British India" means the Territories which are or shall be vested in Her Majesty or her successors by the Statute 21 & 22 Vic., cap. 106 entitled "An Act for the better Government of India."

"Local Government."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer Executive Government in such part of India, or the Chief Executive Officer of such part when it is under the immediate administration of the Governor-General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government; and "High Court" means the highest Civil Court of appeal in such part.

"High Court."

II.—OF MARRIAGES BETWEEN PARSEES.

Requisites to validity of Parsee marriage.

III. No marriage contracted after the commencement of this Act shall be valied, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsees and set forth in a Table which the Governor-General of India in Council shall, after due enquiry, publish in the Gazette of India, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "Asírvád" by a Parsee Priest in the presence of two Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

Remarriage, save after divorce, unlawful during life-time of first wife or husband.

IV. No Parsee shall, after the commencement of this Act contract any marriage in the life-time of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided; and marriage contracted contrary to the provisions of this Section shall be void.

Punishment of bigamy.

V. Every Parsee who shall, after the commencement of this Act and during the life-time of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, shall be subject to the penalties

provided in Sections CCCCXCIV. and CCCCXCV. of the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

Certificate and registry of marriages.

VI. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate, together with a fee of two rupees to be paid by the husband, to the Registrar of the place at which such marriage is solemnized. The Registrar, on receipt of the certificate and fee, shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

Appointment of Registrar.

VII. For the purposes of this Act a Registrar shall be appointed, * * * * *.

Within the local limits of the ordinary original Civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and, without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.*

Marriage register to be open for public inspection.

VIII. The register of marriages mentioned in Section VI. shall, at all reasonable times, be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

Penalty for solemnizing marriage contrary to Section 4.

IX. Any Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of Section IV. shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for Priest's neglect of requisements of Section 6.

X. Any Priest neglecting to comply with any of the requisitions affecting him contained in Section VI. shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for omitting to subscribe and attest the certificate.

XI. Every other person required by Section VI. to subscribe or attest the said certificte, who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for making &c., false certificate.

XII. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section CCCCLXVI. of the said Code.

Penalty for failing to register certificate.

XIII. Any Registrar failing to enter the said certificate pursuant to Section VI. shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for secreting, destroying or altering the register.

XIV. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shal lalso be liable to fine which may extend to five hundred rupees.

III.—Of Parsee Matrimonial Courts.

Constitution of special Courts under this Act.

XV. For the purposes of hearing suits under this Act, a special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras, and Bombay, and in such other places in the Territories of the several Local Governments as such Governments respectively shall think fit.

Parsee Chief Matrimonial Courts.

XVI. The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras, or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be conterminous with the local limits of the ordinary original Civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

Parsee District Matrimonial Courts.

XVII. Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place. Subject to the provisions contained in the next followng Section, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the District in which it is held. The Judge of the principal Court of original Civil jurisdiction

* The words omitted from this Section have been repealed by Act XIV of 1870.

at such place shall be the Judge of such Matrimonial Court; and, in the trial of cases under this Act, he shall be aided by seven Delegates.

Power to alter territorial jurisdiction of District Courts.

XVIII. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Martrimonial Court, and may include within such limits any number of Districts under its Governmet.

Certain Districts to be within the jurisdiction of the Chief Matrimonial Court.

XIX. Any District which the Local Government, on account of the fewness of the Parsee inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the Territories under such Local Government, where there is such Court.

Court Seal.

XX. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court, shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Appointment of Delegates.

XXI. The Local Governments shall, in the Presidency Towns and Districts subject to their respective Governments, respectively appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees: their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original Civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

Power to appoint new Delegates.

XXII. The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the Local Government may appoint any other person being a Parsee to be a Delegate in his stead; and the name of the person so appointed shall be published in the Official Gazette.

Delegates to be deemed public servants.

XXIII. All delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

Selection of Delegates under Sections 16 and 17 to be from those appointed under Section 21.

XXIV. The Delegates selected under Sections XVI. and XVII. to aid in the adjudication of suits under this Act, shall be taken, under the orders of the presiding Judge of the Court, in due rotation from the Delegates appointed by the Local Government under Section XXI.

Practitioners in Matrimonial Courts.

XXV. All Advocates, Vakeels, and Attorneys-at-Law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

Court in which suits to be brought.

When defendant has left British India.

XXVI. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit. When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

IV.—Of Matrimonial Suits.

(a). *For a decree of Nullity.*

In case of lunacy or mental unsoundness.

XXVII. If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void, upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this Section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

In case of non-consummation owing to physical causes.

XXVIII. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

(b). *For a Decree of Dissolution in Case of Absence.*

In case of absence for seven years.

XXIX. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may at the instance of either party thereto, be dissolved.

(c). *For Divorce or Judicial Separation.*

On the ground of the wife's adultery.

XXX. Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married or fornication with an unmarried wo-

man not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery, the plaintiff shall, unless the Cout shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

On the ground of the husband's adultery, &c.

XXXI. If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

Grounds of judicial separation.

XXXII. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

Suits for divorce or judicial separation.

XXXIII. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum, not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

Alimony *pendente lite.*

XXXIV. The Court may, if it shall think fit, on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life, as, having regard to her own property (if any), her husband's ability, and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties, and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

Permanent alimony.

XXXV. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

Payment of alimony to wife or to her trustee.

(b). For Restitution of Conjugal Rights.

XXXVI. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Suit for restitution of conjugal rights.

XXXVII. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

No suit to be broght to enforce marriage or contract arising out of marriage when husband under 16 years or wife under 14 years.

XXXVIII. In every suit preferred under this Act, the case shall be tried with closed doors, should such be the wish of either of the parties.

Suits may be heard with closed doors.

XXXIX. Repealed by Act VII. of 1870.

XL. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

Provisions of Civil Procedure Code to apply in suits under this Act.

Determination of questions of law and procedure, and of fact.

XLI. In suits under this Act all questions of law and procedure shall be determined by the presiding judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

Appeal to High Court.

XLII. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

Liberty to the parties to marry again.

XLIII. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

V.—Of the Children of the Parties.

Custody of children *pendente lite.*

XLIV. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marrige, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper, with respect to the custody, maintenance, and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance, and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

Orders as to custody of children after final decree.

Settlements of wife's property for benefit of children.

XLV. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

VI.—Of the Mode of enforcing Penalties under this Act.

Cognizance of offences under this Act.

XLVI. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences under this Act, committed within the local limits of High Court.

XLVII. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Levy of fines by distress.

XLVIII. All fines imposed under the authority of this Act may in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the Officer imposing the fine.

Procedure until return is made to distress warrant.

XLIX. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security, to the satisfaction of such Officer, for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if no sufficient distress.

L. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any tern not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

VII.—MISCELLANEOUS.

LI. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and hall have full power from time to time to revoke or alter the same. All such rules, revocations, and alterations shall be published in the Official Gazette. Rules of Procedure of Parsee Matrimonial Courts to be made by the High Court.

LII. The Governor-General of India in Council may invest the Chief Executive Officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Act in a Local Government. Power to invest Chief Executive Officer with powers of Local Government.

LIII. This Act shall * * * * * extend to the whole of British India. * Extent of Act.

SCHEDULE (*See Section 6.*)

Date and Place of Marriage.	Names of the Husband and wife.	Condition at the time of Marrige.	Rank or profession.	Age.	Residence.	Names of the Fathers or Guardians.	Rank or profession.	Signature of the Officiating Priest.	Signature of the Witnesses.	Signature of father or guardian when husband or wife is an infant.

ACT No. XVI. OF 1865. †

(*Received the assent of the Governor-General on the 7th April.*)

1. *Interpretation Clause. Number. "Courts of Revenue." "Land."*
2. *Suits and appeals relating to land during progress of Revenue Settlement, to be cognizable by Courts of Revenue and Financial Commissioner.*
3. *Powers of the Financial Commissioner as the highest Court of appeal.*
4. *Suits not to be instituted or tried by any other than the Court or authority before specified.*
5. *Limitation rules not to apply to suits relating to under-tenures.*
6. *Certain suits relating to under-tenures dismissed on the ground of the limitation-bar, may be revived.*
7. *Procedure as to suits relating to land instituted after period mentioned in Section 2.*
8. *Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oude.*

An Act to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits.

Preamble. Whereas, before the introduction of the Code of Civil Procedure in to the Province of Oude, the jurisdiction in suits relating to the title or succession to land in the said Province, or to the possession of land, or to any right in respect of any land, was vested exclusively in the Courts of Revenue and in the Financial Commissioner, and after that office became vacant, in the Chief Commissioner;

* The words omitted from this Section have been repealed by Act XIV. of 1870.

† Act XIII. 1866 to be read as part of this Act.

And whereas since the introduction of the said Code doubts have arisen whether such suits are cognizable in the first instance by the ordinary Civil Courts and on appeal by the Judicial Commissioner, or in the first instance by the Revenue Courts and on appeal by the Chief Commissioner, or Financial Commissioner whose office has now been revived; And whereas it is expedient to remove such doubts, and to enlarge the period of limitation within which certain classes of suits may be entertained under this Act; It is enacted as follows:—

Interpretation Clause.

Number.

"Courts of Revenue."

"Land."

I. In the construction of this Act, except where there is something repugnant in the subject or context—

Words in the singular number shall include the plural, and words in the plural number shall include the singular.

"Courts of Revenue" include Officers employed in making or revising Settlements.

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

Suits and appeals relating to land during progress of Revenue Settlements, to be cognizable by Courts of Revenue and Financial Commissioner.

II. In any District in the Province of Oude in which a Settlement of the Land Revenue is in progress, all suits of whatever description arising in such District relating solely to the title or succession to land, or to the possession of land, or to any right in respect of any land, shall, during the continuance of such Settlement, and for such further period thereafter as the Governor-General of India in Council, by notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decisions of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner: Provided that where in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor the Financial Commissioner shall have jurisdiction under this Section.

Powers of the Financial Commissioner as the highest Court of appeal.

III. The Financial Commissioner shall, with respect to suits cognizable by the Revenue Courts under Section II. of this Act, be deemed the highest Court of Appeal in the Province of Oude within the meaning of the Code of Civil Procedure, and shall have and exercise, in respect of such suits, all the powers vested in the Sudder Court, and shall be subject to all the rules prescribed with reference to the Sudder Court by such Code, subject to the restrictions, limitations, and provisoes with which the Code was extended to the said Province as contained in the declaration of the Governor-General in Council bearing date the sixth August 1861. Subject to the same restrictions, limitations, and provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

Suits not to be instituted or tried by any other than the Court or authority before specified.

IV. Subject to the proviso in Section II. of this Act, no suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land, shall, during the period limited in the said Section, be instituted or tried in any Court, or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

Limitation rules not to apply to suits relating to under-tenures.

V. No suit relating to any under-tenure which shall be cognizable in any Revenue Court under this Act shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844. Provided that this Section shall not apply to any suit by a person claiming only a right to cultivate as a tenant-at-will, or as a tenant with the right of occupancy, or as a tenant at fixed or favorable rates.

Certain suits relating to under-tenures dismissed on the ground of limitation-bar, may be revived.

VI. Any suit or appeal relating to any under-tenure (not being a suit within the proviso contained in the last preceding Section,) cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the law of limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within six calendar months from the date of the passing of this Act. The petition may be written on paper bearing the stamp required for petitions

presented to the Financial Commissioner or subordinate Revenue Court, as the case may be.

VII. All suits relating to the proprietary right in, succession to, or possession of, any land, or to any right in respect to any land, which shall be instituted after the expiration of the period appointed in Section II. of this Act, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

Procedure as to suit relating to land instituted after period mentioned in Section 2.

VIII. No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province and before the passing of this Act, in any suit relating to the proprietary right in, succession to, or possession of, any land, or to any right in respect of any land, in the said Province, shall be invalid by reason of anything contained in the said Code.

Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oude.

ACT No. XIX. OF 1865.*

(*Received the assent of the Governor-General on the 10th April.*)

1. *Short title.*
2. *Interpretation Clause. "Assistant Commissioner." "Land."*
3. *"District." "Division."*
4. *Grades of Courts in the Punjab.*
5. *Jurisdiction of Tahsildar.*
6. *Local Government may in special cases give Naib Tahsildars powers of Tahsildar.*
7. *Jurisdiction of Assistant Commissioner with ordinary powers.*
8. *Jurisdiction of Assistant Commissioner with special powers.*
9. *Criminal power to be exercised by Courts of the 1st, 2nd, and 3rd grades.*
10. *Jurisdiction of Assistant Commissioner with full powers.*
11. *Jurisdiction of Deputy Commissioner.*
12. *Jurisdiction of Commissioner.*
13. *Court in which suit shall be instituted.*
14. *Distribution of business in Courts subordinate to Deputy Commissioner.*
15. *Power of the Commissioner to withdraw suits from subordinate Courts.*
16. *Power of Judicial Commissioner to transfer suits.*
17. *Suits for immoveable property situate within different jurisdictions of single District.*
18. *Suits for immoveable property situated in different Districts.*
19. *Suits for immoveable property situate in Districts subject to different Commissioners.*
20. *Local Government may invest additional Officers with the powers of a Deputy Commissioner or Commissioner.*
21. *Local Government may invest special Officer with Civil powers of Commissioners, &c., in District in course of settlement.*
22. *Local Government may invest the Financial Commissioner with powers of Chief Court for certain purposes. Proviso.*
23. *Exclusion of jurisdiction, under Sections 21 and 22, of Revenue Courts and Financial Commissioner.*
24. *Repealed.*
25. *Repealed.*

An Act to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; It is enacted as follows:—

Preamble.

I. This Act shall be called "The Punjab Courts' Act, 1865."

Short title.

II. In this Act—

Interpretation Clause.

"Assistant Commissioner" includes "Extra Assistant Commissioner."

"Assistant Commissioner"

* See Act VII. 1868 regarding appeals. Act XXVII. 1867 to be read as part of this Act. See also Act IV. of 1870.

"Land."

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

"District."

"Division."

III. For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed the District, and the Court of such Deputy Commissionet shall be deemed the District Court. The local jurisdiction of a Commissionet shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Punjab.

IV. There shall be seven grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, unless otherwise provided in such Act, namely:—

(1.)—The Court of the Tahsildar.
(2.)—The Court of the Assistant Commissioner with ordinary powers.
(3.)—The Court of the Assistant Commissioner with special powers.
(4.)—The Court of the Assistant Commissioner with full powers.
(5.)—The Court of the Deputy Commissioner.
(6.)—The Court of the Commissioner.
(7.)—The Court of the Judicial Commissioner

Jurisdiction of Tahsildar.

V. The Local Government may invest any Tahsildar with power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

Local Government may in special cases give Naib Tahsildars Powers of Tahsildar.

VI. The Local Government shall also have power, from time to time, specially to invest any Naib Tahsildar with the powers of a Tahsildar as aforesaid within such limits as it may think proper, and to withdraw such powers.

Jurisdiction of Assistant Commissioner with ordinary powers.

VII. The Assistant Commissioner with ordinary powers shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

Jurisdiction of Assistant Commissioner with special powers.

VIII. The Assistant Commissioner with special powers shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

Criminal powers to be exercised by Courts of the 1st 2nd, and 3rd grades.

IX. The Criminal powers to be exercised by the Courts of the said first, second, and third grades respectively, shall be those with which the several Officers presiding in those Courts shall from time to time be invested by the Local Government under Section XXIII. of the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with full powers.

X. The Assistant Commissioner with full powers shall, on the Civil side, have power to try and determine suits of every description under ten thousand Rupees in value or amount, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

Jurisdiction of Deputy Commissioner.

XI. The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the first three grades of Courts mentioned in Section IV. of this Act, and, on the Criminal side, to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure, and to hear appeals according to the provisions of the same Code relating to the hearing of appeals by Magistrates from the sentences and orders of Courts subordinate to the Magistrate of the District. The Deputy Commissioner may also be invested by the Local Government with the powers described in Act No. XV. of 1862 (*to amend the Code of Criminal Procedure*).

Jurisdiction of Commissioner.

XII. The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the Courts of the said fourth and fifth grades, and, on the Criminal side, to exercise the powers of a Sessions Judge as defined in the Code of Criminal Procedure, and to hear appeals from the subordinate Courts according to the provisions of the same Code relating to the hearing of appeals by the Sessions Court.

Court in which suit shall be instituted.

XIII. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Distribution of business in Courts subordinate to Deputy Commissioner.

XIV. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit; Provided that no Court shall try any suit the value or amount of which shall exceed its proper jurisdiction.

Power of the Commissioner and Deputy Commissioner to

XV. The Commissioner or Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other Court sobordinate to him and competent in respect of the value

or amount of the suit to try the same. The Commissioner may also withdraw any appeal from the Court of any Deputy Commissioner subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Deputy Commissioner in his Division.

withdraw suits from subordinate Courts.

XVI. The Judicial Commissioner may withdraw any suit or appeal from any Court subordinate to him other than Courts of Small Causes or Courts of Cantonment Magistrates, and refer such suit or appeal for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same.

Power of Judicial Commissioner to transfer suits.

XVII. If the suit be for immoveable property situate within the limits of a single District, but within the Jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

Suits for immoveable property situate within different jurisdictions of single District.

XVIII. If the suit be for immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same; and such Commissioner, after hearing the objections, if any, of the defendant, may grant authority accordingly. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situated in different Districts.

XIX. If the Districts within the limits of which the immoveable property is situate are subordinate to different Commissioners, the application mentioned in the last preceding Section shall be submitted to the Commissioner in whose Division the District in which the suit is brought is situate, and such Commissioner, after hearing the objections, if any, of the defendant, may give authority to proceed with the suit.

Suits for immoveable property situate in Districts subject to different Commissioners.

XX. Whenever the number of cases depending in any District or Divisional Court shall be so great as to prevent their being disposed of within a reasonable period, the Local Government may, with the previous sanction of the Governor-General of India in Council, invest any Officer with the Civil and Criminal powers of a Deputy Commissioner or Commissioner, as defined in this Act, in such District or Division as the case may be.

Local Government may invest additional Officers with the powers of a Deputy Commissioner or Commissioner.

XXI. In any District in which a Settlement of Land Revenue is in progress, the Local Government may, on its own authority empower and direct the Tahsildars, Assistant Commissioners, Deputy Commissioner, and Commissioner in such District, to exercise their respective powers as defined in this Act in suits regarding land, or the rent, revenue, or produce of land, on the Revenue and not on the Civil side of their Court The Local Government may also, with the previous sanction of the Governor-General of India in Council, invest any special Officer in such District with the Civil powers of a Commissioner, Deputy Commissioner, Assistant Commissoner, or Tahsildar, as defined in this Act, for the purpose of deciding suits in respect to land, or the rent revenue, or produce of land, such powers to be exercised on the Revenue side: Provided that in all such suits as aforesaid no deviation shall be allowed from the Rules of Civil Procedure in force, and that the powers given under this Section shall continue only so long as Settlement operations are in progress in the District and shall cease on the termination thereof.

al Government ma nvest special Officer with Civil powers of Commissioners, &c., in District in course of settlement.

XXII. In any District in which a Settlement of Land Revenue is in progress, the Local Government may invest the Financial Commissioner with the powers of the Judicial Commissioner for the purpose of trying special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under Section XXI, of this Act, and with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land; Provided that in the trial of such appeals no deviation shall be allowed from the rules of Civil Procedure in force, and that the power given under this Section shall continue only so long as Settlement operations shall be in progress, and shall cease on the termination thereof. So long as the financial Commissioner may be invested with powers as aforesaid, the jurisdiction of the Judicial Commissioner in respect to the appeals hereby made cognizable by the Financial Commissioner shall be suspended.

Local Government may invest the Financial Commissioner with powers of Chief Court for certain purposes.

Proviso.

Exclusion of jurisdiction, under Sections 21 and 22, of Revenue Courts and Financial Commissioner.

XXIII. Whenever in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor Financial Commissioner shall have jurisdiction under Sections XXI. or XXIX. of this Act.

XXIV. *Repealed by Act XIV. of 1870.*

XXV. *Do.* *Do.*

ACT No. XX. OF 1865.*

(Received the assent of the Governor-General on the 10th April.)

PRELIMINARY.

1. Short title.

2. Interpretation of terms. Number. "Section." "Person." "Pleader." "Collector." "Magistrate." "Judge." "Court." "District." "District Court." "Local Government." "High Court." "Board of Revenue."

3. Laws repealed.

OF PLEADERS AND MOOKHTARS.

4. High Court to make rules for qualification, &c., of Pleaders and Mookhtars.

5. No person to practise as a Pleader or as a Mookhtar unless qualified under this Act. Saving of Pleaders already qualified.

6. Local Government to appoint Examiners.

7. Names of Pleaders and Mookhtars to be enrolled.

8. Certificates to be issued to Pleaders and Mookhtars.

9. Form and duration of certificate.

10. Value of stamp on certificate.

11. Pleaders may practise in Criminal Courts and Revenue Offices. Mookhtars may plead in Criminal Courts.

12. Pleaders and Mookhtars to be enrolled in the Courts in which they intend to practise.

13. Uncertificated persons practising as Pleaders or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

14. High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

15. High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

16. Procedure when charge of unprofessional conduct is brought in a subordinate Court. Suspension pending investigation.

17. High Court may call for the record in case of acquittal under Section 16.

18. Dismissed pleader or Mookhtar to surrender his certificate.

19. No person to act as Agent in Revenue Offices or Magistrates' Courts unless qualified as herein provided.

20. Names of Revenue Agents to be enrolled.

21. Form of certificate.

22. Value of stamp.

23. Revenue Board to ascertain qualifications of Revenue Agents.

24. Local Government to appoint Examiners.

25. Enrolment of Revenue Agent in Office in which he shall usually practise.

26. The Board may suspend or dismiss Revenue Agent convicted of criminal offence.

27. The Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

28. Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

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* Act XXIX of 1865 and Act IX. 1866. to be read as part of this Act,

29. Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to the Board.
30. Power to Board to call for record.
31. Report to High Court when the Revenue Agent is also an enrolled Mookhtar.
32. Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29 or 31.
33. Dismissed Agent to surrender his certificate.
34. Penalty for an unqualified person practising as Agent.
35. Person authorized by general or special powers of attorney may be Agent Sanction required.
36. Sanction may be revoked or suspended.
37. High Court and Revenue Board to fix fees on Civil and Revenue proceedings.
38. Section 37 not to apply to Agents appointed under Section 35.
39. Clients may make private agreements with their Pleaders, Mookhtars, or Revenue Agents, as to remuneration.
40. A suitor may appear for any co-suitor. Prisoners may employ any assistant. Fees not recoverable by such persons.
41. Rules to be published in the Gazette.
42. Fines subject to revision.
43. Pleaders in the subordinate Courts may apply to the District Judge for enrolment.
44. Act not to apply to Advocates, &c., admitted and enrolled by any High Court under Letters Patent.
45. Advocates and Vakeels enrolled in a High Court may practise in any Court other than a High Court in which they are not enrolled.
46. Attorney of a High Court may plead in any Court not a High Court.
47. Commencement and extent of Act.
48. Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c.

An Act to amend the law relating to Pleaders and Mookhtars.

Preamble.

Whereas it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension, and dismissal of Revenue Agents; It is enacted as follows :—

PRELIMINARY.

Short title.

I. This Act may be cited as "The Pleaders, Mookhtars, and Revenue Agents Act, 1865."

Interpretation of terms.

II. In this Act, unless there be something repugnant or inconsistent in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section."

"Section" means a Section of this Act.

"Person."

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader."

"Pleader" includes Vakeels.

"Collector."

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate."

"Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge."

"Judge" means the presiding Judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court."

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District."
"District Court."

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissiner or any other Court in the territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

"Local Government."
"High Court."
"Board of Revenue."

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

III. Repealed by Act XIV. of 1870.

OF PLEADERS AND MOOKHTARS.

High Court to make rules f r qualification, &c., of Pleaders and Mookhtars.

IV. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time vary and add to such rules.

No person to practise as a Pleader or as a Mookhtar unless qualified under this Act.

V. Except as hereinafter provided, no person shall appear, plead, or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid:

Saving of Pleaders already qualified.

Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule, or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

Local Government to appoint Examiners.

VI. To facilitate the ascertainment of the qualifications mentioned in Section IV., the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Names of Pleaders and Mookhtars to be enrolled.

VII. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

Certificates to be issued to Pleaders and Mookhtars.

VIII. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in Section IX., may be issued and signed by the officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

Form and duration of certificate.

IX. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

Value of stamp on certificate.

X. The stamp on the certificate, whether original or renewed, shall be of the following value.

On a certificate authorizing the holder to practise as a Pleader –

(*a.*) In the High Court and any subordinate Court—fifty Rupees:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—twenty-five Rupees:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—fifteen Rupees:

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—five Rupees:

On a certificate authorizing the holder to practise as a Mookhtar—

(*e.*) In the High Court and any subordinate Court—twenty-five Rupees:

(*f.*) In the District Courts, subordinate Courts, and Small Cause Courts—sixteen Rupees:

(*g.*) In the Courts of the Commissioners of Circuit, Magistrates and subordinate Magistrates: in Sudder Ameens' and Moonsiffs' Courts, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—eight Rupees.

(*h.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—four Rupees.

Pleaders may practise in Criminal Courts and Revenue Offices.

XI. Pleaders duly admitted and enrolled under this Act may appear, plead, and act in any Criminal Court, or before any Board of Revenue or in any Revenue

Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled as aforesaid may subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear, and act in any Civil Court, and may appear, plead, and act in any Criminal Court within the same limits.

Mookhtars may plead in Criminal Courts.

XII. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

Pleaders and Mookhtars to be enrolled in the Courts in which they intend to practise.

XIII. Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable, by order of such Court or the Officer at the head of such Office, to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

Uncertificated persons practising as Pleaders or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

XIV. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

XV. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid, who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

XVI. If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend, or dismiss the Pleader or Mookhtar. Such report, when made by any Officer other than the District Judge, shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

Suspension pending investigation.

XVI. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

High Court may call for the record in case of acquittal under Section 16.

XVIII. When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed, or to any Court to which he shall be ordered by the High Court to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three calendar monts. If during such suspension or after such dismissal, he shall practise as a Pleader or Mookh-

Dismissed Pleader or Mookhtar to surrender his certificate.

tar in any Court, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding six calendar months.

OF AGENTS PRACTISING IN THE REVENUE OFFICES.

No person to act as Agent in Revenue Offices or Magistrate's Courts, unless qualified as herein provided.

XIX. No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in Section XXI., may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

Names of Revenue Agent to be enrolled.

XX. The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

Form of certificate.

XXI. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal, the certificate then in his possession shall be cancelled and retained by the officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

Value of stamp.

XXII. The stamp on such certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Revenue Agent—

In the Board of Revenue or in any Office subordinate to the Board—fifteen Rupees:

In the Office of a Commissioner or in any Office subordinate to a Commissioner—ten Rupees:

In the Office of a Collector or in any Officer subordinate to a Collector—five Rupees.

Revenue Board to ascertain qualifications of Revenue Agents.

XXIII. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required, within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

Local Government to appoint Examiners.

XXIV. To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

Enrolment of Revenue Agent in Office in which he shall usually practise.

XXV. Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him and subject to the conditions as aforesaid, to practise as a Revenue Agent in all other Revenue-Offices within the limits of the Territory under the Board of Revenue in which he is enrolled.

The Board may suspend or dismiss Revenue Agent convicted of criminal offence.

XXVI. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

The Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

XXVII. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when a Pleader is charged

XXVIII. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such

practise, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend, or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension, or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

with unprofessional conduct before the Board of Revenue.

XXIX. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged at least ten days before the day so appointed ; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue-Agent, proceed to acquit, suspend, or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend, or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension, or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to the Board.

XXX. The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of Section XXVIII.

Power to Board to call for record.

XXXI. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled ; and such Court, after making any enquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

Report to High Court when the Revenue Agent is also an enrolled Mookhtar.

XXXII. The provisions of Section XVIII. shall apply to any Pleader or Mookhtar suspended or dismissed under Sections XXVIII., XXIX., or XXXI.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 22, or 31.

XXXIII. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three calendar months.

Dismissed Agent to surrender his certificate.

XXXIV. Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable, by order of the Board or Officer in whose Office he shall so practise, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him in the course of such practising.

Penalty on an unqualified person practising as Agent.

XXXV. Nothing hereinbefore contained shall prevent any person from employing any other person though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office : Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or a special power of attorney, as the case may be, in that behalf, from the person so employing him : Provided also that no person shall act as last aforesaid, unless he shall have received the general or the special sanction, as the case may be, in that behalf of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

Persons authorized by general or special powers of attorney may be Agents.
Sanction required.

Sanction may be revoked or suspended.

XXXVI. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted ; and any person who, having received such sanction, shall practise under Section XIX. during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in Section XXXIII.

OF THE REMUNERATION OF PLEADERS AND REVENUE AGENTS.

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

XXXVII. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader ; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

Section 37 not to apply to Agents appointed under Section 35.

XXXVIII. The provisions of the last preceding Section shall not be applicable to Agents appointed under Section XXXV.

Clients may make private agreements with other Pleaders, Mookhtars, or Revenue Agents, as to remuneration.

XXXIX. Parties employing Pleaders, Mookhtars, or Revenue Agents, in any Court or Office, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars, or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

MISCELLANEOUS.

A suitor may appear for any co-suitor.

Prisoners may employ any assistant.

Fees not recoverable by such persons.

XL. Any suitor may appear, plead, and act in any suit, appeal, or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting, or assisting, shall be entitled to recover any fee or reward therefor.

Rules to be published in the Gazette.

XLI. The rules mentioned in Sections IV. and XXIII., and all variations of and additions to such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

Fines subject to revision.

XLII. Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

Pleaders in the subordinate Courts may apply to the District Judge for enrolment.

XLIII. Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act, may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in Sections VIII., IX., and X. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

Act to apply to Advocates, &c., admitted and enrolled by any High Court under Letters Patent.

XLIV. With the exception of Section XXXIX., this Act shall not apply to Advocates, Vakeels, and Attorneys-at-Law, admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, nor to Mookhtars practising in such Court : Provided that the High Court shall have power to make rules for the qualification, admission, enrolment, suspension, and dismissal of the Mookhtars practising on the appellate side of such Court and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable, on all proceedings on the appellate side of such Court, by any party in respect of the fees of his adversary's Vakeel. The rules, penalties, and fees so made, prescribed, and fixed, and every variation thereof, shall be published in three consecutive numbers of the Official Gazette.

Advocates and Vakeels enrolled in a High Court may practise in

XLV. Every person now or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything herein before contained, be entitled as such to

practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office; subject nevertheless to the rules in force relating to the language in which the Court or Office is to be addressed by Pleaders or Renenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Division Court, or High Court exercising original jurisdiction.

any Court other than a High Court in which they are not enrolled.

XLVI. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

Attorney of a High Court may plead in any Court not a High Court.

XLVII. This Act shall take effect in the Territories under the Governments of the Lieutenant-Governor of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to the Territories subject to such Government. Every such order shall be published in the Official Gazette.

Commencement and extent of Act.

XLVIII. From the date on which this Act shall be extended by the Local Government, under the provision contained in the last preceding Section, to the Territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories, except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

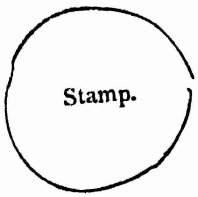
Repeal of inconsistent enactments in Madras, Bombay, the Punjab &c.

FIRST SCHEDULE.

Repealed by Act XIV. of 1870.

SECOND SCHEDULE.

Form of Pleader or Mookhtar's Certificate.



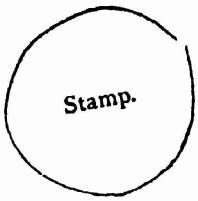
Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B.
Pleader [*or* Mookhtar] whose place [*or* places] of business is [*or* are] hath this day delivered and left with me a declaration in writing asigned by him, and containing his name and place [*or* places] of business and the Court [*or* Courts] of which he is admitted a Pleader [*or* Mookhtar], together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [*or* the Sudder Court of the North-Western Provinces, *or as the case may be*,] and that he is entitled to practise as a Pleader [*or* Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [*or* the Sudder Court of the North-Western Provinces, and any subordinate Court, *or* the Sudder Ameens' Courts, *or* the Moonsiffs' Courts, *as the case may be*], and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [*or* of the North-Western Provinces, *or as the case may be*] for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Registrar [*or as the case may be*] of the High Court of Judicature at Fort William in Bengal [*or* of the Sudder Court of the North-Western Provinces, *or as the case may be.*]

THIRD SCHEDULE.

Form of Revenue Agent's Certificate.



Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [*or* of the Lower Provinces, *or as the case may be*], and in any Office subordinate thereto in such Provinces, for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [*or* the Lower Provinces, *as the case may be.*]

ACT NO. XXI. OF 1865.

(Received the assent of the Governor-General on the 10th April.)

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1. Division of property amoug widow and children of Intestate.
2. Division among widower and children of Intestate.
3. Division among the children of male Intestate who leaves no widow.
4. Division among the children of female Intestate who leaves no widower.
5. Division of predeceased child's share of Intestate's property among the widow or widower and issue of such child.
6. Division when the Intestate leaves a widow or widower, but no lineal descendants.
7. Division when the Intestate leaves neither widow nor widower nor lineal descendants.
8. Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

An Act to define and amend the law relating to Intestate Succession among the Parsees.

Preamble.

Whereas it is expedient to define and amend the Law relating to Intestate Succession among the Parsees ; It is enacted as follows :—

Division of property among widow and children of Intestate.

I. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division among widower and children of Intestate.

II. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

Division among the children of male Intestate who leaves no widow.

III. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided among the children, so that the share of each son shall be four times the share of each daughter.

Division among the children of female Intestate who leaves no widower.

IV. When a femal Parsee dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

V. If any child of a Parsee Intestate shall have died in his or her life-time, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such decease or child had died immediately after the Intestate's death.

Division of preceased child's share of Intestate's property among the widow or widower and issue of such child.

VI. Where a Parsee dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity. If there be no relatives on the father's side the Intestate's widow or widower shall take the whole.

Division when the Intestate leaves a widow or widower, but no lineal descendants.

VII. When a Parsee dies leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of the property as to which he or she shall have died intestate. The next of kin, standing first in the Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

Division when the Intestate leaves neither widow nor widower nor lineal descendants.

VIII. The following portions of the Indian Succession Act, 1865, shall not apply to Parsees (that is to say,) the whole of Part III., the whole of Part IV. excepting Section XXV., the whole of Part V., and Section XLIII.

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

THE FIRST SCHEDULE.

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

(2.) Grandfather and grandmother.

(3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great-grandfather and great-grandmother.

(5.) Great-grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

THE SECOND SCHEDULE.

(1.) Father and mother.

(2.) Brothers and sisters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not re-married at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grand father's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's fatherand mother.

(16.) Children of the maternal grandfather's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grand mother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

ACT NO. XXII. OF 1865.

(Received the assent of the Governor-General on the 10th April.)

1. Act XVIII. of 1864, Section 21, repealed.
2. Power to Governor-General in Council to extend Act XVIII. of 1864.
3. This Act to be construed with Act XVIII. of 1864.

An Act to amend Act No. XVIII. of 1864 (to provide for the appointment of a Municipal Committee for the City of Lucknow.)

Preamble.

Whereas it is expedient to amend Act No. XVIII. of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknow*); It is enacted as follows:—

Act XVIII. of 1864 Section 21, repealed.

I. Section XXI. of the said Act No. XVIII. of 1864 is hereby repealed, and the following Section shall be read in lieu thereof.

Power to Governor-General in Council to extend Act XVIII. of 1864.

II. It shall be lawful for the Governor-General of India in Council, by Order published in the Gazette of India, to extend the said Act to any place under the immediate administration of the Government of India; and when so extended, it shall have effect in such place as if the name of such place were substituted throughout the said Act for the name "Lucknow." The Governor-General of India in Council shall by such Order declare how many persons shall be members, and what and how many persons shall be *ex-officio* members of the Committee to be constituted in the place to which the said Act shall have been so extended: Provided that the number of such *ex-officio* members shall not be more than one-third of the number of all the members of such Committee.

This Act to be construed with Act XVIII. of 1864.

III. This Act shall be read and taken as part of the said Act No. XVIII. of 1864.

ACT NO. XXIII. OF 1865.

(Received the assent of the Governor-General on the 17th April.)

1. Interpretation of terms. "Punjab." "Lieutenant-Governor." "Chief Court." "Judge." "Registrar." "Magistrate." "Barrister." "Section." Number. Gender.
2. Constitution of Chief Court.
3. Precedence of Judges of Chief Court.
4. Tenure of office of Judges of Chief Court.
5. Declaration to be made by persons appointed Judges of Chief Court.
6. Appointment of Registrar.
7. Appointment and removal of Ministerial Officers.
8. Dismissal of Officers of Court.
9. Seal of Chief Court. Processes to be sealed with Court seal, and signed by Judge or Registrar.
10. Agent for Secretary of State, suitors, and Advocates, &c., of High Courts may appear and plead. Licensing of Pleaders. Rules regarding their qualifications and admission.
11. Power to suspend or revoke Pleaders' license.
12. Fees of Pleaders to be subject to control.

13. The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.
14. Extraordinary original Civil jurisdiction.
15. Power to transfer suits and appeals from one subordinate Court to another.
19. Power to call for record of cases decided by subordinate Courts.
17. Special appeal from Courts in Punjab to lie only to Chief Court.
18. Regulation of procedings in Civil suits.
19. In exercise of its Civil jurisdiction, law of the local Courts to apply.
20. Power to try European British subjects.
21. Charge to be delivered to Registrar with commitment of European British subject.
22. Chief Court to consider and, if it will, to amend, alter, or add to the charge. Charge with amendments, alteration, or additions (if any) to be recorded.
23. Accused to have copies of examination.
24. Effect of charge.
25. Chief Court may order an unsustainable charge not to be proceeded with. Effect of such order.
26. Places of holding sittings.
27. Procedure pending directions of Chief Court as to place of trial of European British subject.
28. Chief Court may order European British subjects, committed in certain Districts in certain seasons of the year, to be tried at a particular place and confined in a particular jail.
29. Trials under Section 20 to be by Jury.
30. Summoning of Jurors to serve on trials. Military men not exempt.
31. Jury for trial of European British subject.
32. Number of Jury requisite to verdict of guilty.
33. Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.
34. Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.
35. Power to single Judge to reserve for Chief Court any question of law or evidence. Procedure where no such question reserved.
36. Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences, and execution.
37. British subject to be amenable for offences committed in foreign territory.
38. Committing Magistrate to report to the Lieutenant-Governor.
39. If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.
40. Form of warrant of commitment and of bail-bond.
41. Order of Lieutenant-Governor to be full authority.
42. Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.
43. Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.
44. Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.
45. Provisions as to proceedings pending in Judicial Commissioner's Court.
46. Procedure in case of difference of opinion between Judges when Court consists of only two.
(1.)—On appeal on a question of fact.
(2.)—On appeal on a question of law.
(3.)—In exercise of original jurisdiction on a question of law.
(4.)—In exercise of original jurisdiction on a question of fact.
47. Hearing and decision of referred cases.
48. Parties may appear in person, or by Advocate or Vakeel. Transmission of judgment of High Court and proceeding thereupon. Costs of reference to High Court.
49. Registers, books, accounts, and statements to be kept and furnished by Chief Court. Copies of records to be furnished.
50. Chief Courts functions exerciseable by single Judge.
51. Sections 10, 11, and 12 not to be affected on extention to Punjab of Act XX. of 1865.
52. Short title.
53. Commencement of Act.

An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

Preamble.

Whereas it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases ; It is enacted as follows :—

Interpretation of terms.

I. In this Act, unless there be something repugnant in the subject or context—

"Punjab."

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act

"Judge," "Registrar."

"Judge," "Registrar," and other words denoting any particular Officer respectively, include any person for the time being authorized to act as such Judge, Registrar, or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister."

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section."

"Section" denotes a Section of this Act.

Number.

Words in the singular include the plural : words in the plural include the singular.

Gender.

Words importing the masculine gender include females.

Constitution of Chief Court.

II. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing : Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

Precedence of Judges of Chief Court.

III. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

Tenure of office of Judges of Chief Court.

IV. The Judges of the Chief Court shall hold their Offices during the pleasure of the Governor-General of India in Council.

Declaration to be made by persons appointed Judges of Chief Court.

V. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same :—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and Judgment"

Appointment of Registrar.

VI. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under Section XLIV.

Appointment and removal of Ministerial Officers.

VII. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar, and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by the Court, and the due execution of the powers and authorities given to it by this Act.

Dismissal of Officers of Court.

VIII. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court : Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

Seal of Chief Court.

Processes to be sealed with Court Seal and signed by Judge or Registrar.

IX. The Chief Court shall have, and use as occasion may require, a Seal with this inscription "The Seal of the Chief Court of the Punjab," to be made under the directions of the Lieutenant-Governor ; and all summonses, decrees, and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

Agent for Secretary of State, suitors, and Advocates, &c., of High Courts may appear and plead.

X. Any person duly authorized by the Secretary of State for India in Council to appear, plead, or act on his behalf ; (2) any suitor appearing, pleading, or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being is an Advocate, Vakeel, or Attorney-at-Law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching

Licensing of Pleaders.

any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

Rules regarding their qualifications and admission.

XI. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

Power to suspend or revoke Pleader's license.

XII. The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees as shall be allowed under Section XLIV.

Fees of Pleaders to be subject to control.

XIII. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that, when a Settlement of Land Revenue shall be in progress, and the Local Government, under Act No. XIX. of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

XIV. The Chief Court may remove, and try and determine as a Court of original jurisdiction, any suit being or falling within the jurisdiction of any Court subject to its superintendence, when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

Extraordinary original Civil jurisdiction.

XV. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence, other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to transfer suits and appeals from one subordinate Court to another.

XVI. The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

Power to call for record of cases decided by subordinate Courts.

XVII. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Chief Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Special appeal from Courts in Punjab to lie only to Chief Court.

XVIII. Save as in this Act is otherwise provided, the proceedings in the Chief Court, in Civil suits of every description between party and party, shall be regulated by the rules relating to Civil Procedure for the time being in force in the Punjab.

Regulation of proceedings in Civil suits.

XIX. In the exercise of its Civil jurisdiction, Original as well as appellate, such rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

In exercise of its Civil jurisdiction, law of the local Courts to apply.

XX. The Chief Court shall have power, as a Court of original jurisdiction, to try Europen British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Power to try European British subjects.

XXI. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the perliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Charge to be delivered to Registrar with commitment of European British subject.

Chief Court to consider, and, if it will, to amend, alter, or add to the charge.

Charge with amendments, alterations, or additions (if any) to be recorded.

Accused to have copies of examinations.

XXII. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations, or additions (if any) gratis.

XXIII. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

XXIV. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Chief Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

XXV. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Places of holding sittings.

XXVI. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab: but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

Procedure pending directions of Chief Court as to place of trial of European British subject.

XXVII. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in Section XXI. shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which he is directed to be tried; and the Officer in charge of such Criminal jail shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects, committed in certain Districts in certain seasons of the year, to be tried at a particular place and confined in a particular jail.

XXVIII. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

XXIX. All trials under Section XX. shall be by Jury.

Summoning of Jurors to serve on trials.

XXX. Whenever the Chief Court shall have given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections CCCXXXVI. to CCCXL., both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding any thing contained in the Code of Criminal Procedure, but no

Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

XXXI. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans or both Europeans and Americans.

Jury for trial of European British subject.

XXXII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Number of Jury requisite to verdict of guilty.

XXXIII. So much of Section CCCLXXX. of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person, convicted of an offence made punishable by death by the Indian Penal Code, has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

XXXIV. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires Judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences, or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.

XXXV. When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner, with a copy of his sentence and a warrant for the execution of the same, to the Magistrate or other Officer in charge of the jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in Section CCCLXXXV. of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Power to single Judge to reserve for Chief Court any question of law or evidence.

Procedure where no such question reserved.

XXXVI. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction, and to trials before such Court, and to sentences by such Court, and to the carrying into execution of such sentences.

Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences, and execution.

XXXVII. Every European British subject apprehended within the Punjab, or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial, as hereinafter provided, on the like evidence as would wartant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

British subject to be amenable for offences committed in foreign territory.

XXXVIII. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

Committing Magistrate to report to the Lieutenant-Governor.

XXXIX. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

out of the Punjab for the purpose of delivering him up for trial before such Court.

Form of warrant of commitment and of bail-bond.

XL. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

Order of Lieutenant-Governor to be full authority.

XLI. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.

XLII. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

XLIII. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.

XLIV. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the Officers, and to settle Tables of fees to be allowed to Pleaders, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette and after being so published shall be used and observed in the Chief Court; provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

Provision as to proceedings pending in Judicial Commissioner's Court.

XLV. The Chief Court shall have Jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

Procedure in case of difference of opinion between Judges when Court consists of only two.

XLVI. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

1st.—On appeal on a question of fact.

(*1st.*)—If the case be heard in appeal and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

2nd.—On appeal on a question of law.

(*2nd.*)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

3rd.—In exercise of original jurisdiction on a question of law.

(*3rd.*)—If the case be heard by the Judges in the exercise of the original Jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under Section XXXV.

4th.—In exercise of original jurisdiction on a question of fact.

(*4th.*)—If the case be heard by the Judges in the exercise of the original Jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

XLVII. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

Hearing and decision of referred cases.

XLVIII. The parties to such cases may appear, plead, and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion, under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court, under Section XLVI., shal be costs in the suit.

Parties may appear in person, or by Advocate or Vakeel.

Transmission of judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

XLIX. The Chief Court shall keep such registers, books, and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Registers, books, accounts, and statements to be kept and furnished by Chief Court.

Copies of records to be furnished.

L. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be perfomed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under Section XLIV.

Chief Court's functions exercisable by single Judge.

LI. Whenever the Lieutenant-Governor of the Punjab shall, under the authority vested in him by Section XLVII. of the Pleaders, Mookhtars, and Revenue Agents' Act, 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections X., XI., and XII. of this Act.

Sections 10, 11 and 12 not to be affected on extension to Punjab of Act XX. of 1865.

LII. This Act may be cited as "The Punjab Chief Court Act, 1865."

Short title.

LIII. This Act shall come into operation on such day as the Governor-General of India in Council shall fix by a notification published in the Gazette of India.

Commencement of Act.

ACT No. XXIV. OF 1865.

(Received the assent of the Governor-General on the 14th July).

An Act to give effect to certain Warrants of Attorney and Cognovits.

I. Repealed by Act VIII. of 1868.
II. ditto ditto.
III. ditto ditto.
IV. ditto ditto.

V. Every Warrant of Attorney and Cognovit executed or given after the passing of this Act, in or relating to proceedings in the said High Court, or in any other High Court of judicature in British India, and every judgment signed thereon, and all executions issued upon such judgments, shall be deemed null and void.

Warrants and Cognovits executed and given after the passing of this Act to be void.

VI. This Act shall be read with and taken as part of "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

This Act to be taken as part of Act No. XX. of 1865.

ACT No. XXIX. OF 1865.

(Received the assent of the Governor-General on the 22nd December.)

1. *Persons qualified as Pleaders or Mookhtars when Act No. XX. of 1865 shall come into operation may continue to practise for six months as if that Act had not been passed.*

2. *Fees now payable by any person in respect of his adversary's Pleader to be payable during the six months, as if Act XX. of 1865 had not been passed.*

3. *Persons practising as Revenue Agents when Act No. XX. of 1865 shall come into operation, may continue to practise for six months as if that Act had not been passed.*

4. High Court may permit person entitled, without examination, to a certificate authorizing him to practise as a Pleader in the Courts mentioned in Act No. XX. of 1865, Section 10, Clause (c), to practise in Small Cause Courts.

5. Interpretation Clause.

An Act to amend the Pleaders, Mookhtars, and Revenue Agents' Act, 1865.

Preamble.

Where as it is expedient to amend the Pleadars, Mookhtars, and Revenue Agents' Act, 1865 : (Act No. XX. of 1865) ; It is enacted as follows :—

Persons qualified as Pleaders or Mookhtars when Act No. XX. of 1865 shall come into operation may continue to practise for six months as if that Act had not been passed.

I. Notwithstanding anything contained in the Pleaders, Mookhtars, and Revenue Agents' Act, 1865, any person who at the time when such Act shall come into operation shall be duly qualified to practise as a Pleader or Mookhtar in any Court in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as a Pleader or Mookhtar, as the case may be, in such Court for the period of six calendar months from the time when the said Act shall come into operation in that part of India, without being admitted or enrolled, or having previously obtained a stamped certificate, in pursuance of the said Act, in the same manner as if such Act had not been passed.

Fees now payable by any person in respect of his adversary's Pleader to be payble during six months, as if Act XX. of 1865 had not been passed.

II. All fees which are now by law payable upon proceedings in any Court by any party in respect of the fees of his adversary's Pleader shall continue to be payable, and may be allowed during the said period of six calendar months, as if such Act had not been passed. *

Persons practising as Revenue Agents when Act No. XX. of 1865 shall come into operation, may continue to practise for six months as if that Act had not been passed.

III. Notwithstanding anything contained in the said Act, any person who at the time when such Act shall come into operation shall practise as an Agent in any proceeding before the Board of Revenue, or in any Office subordinate to such Board, in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as an Agent before such Board or in such Office, as the case may be, for the period of six calendar months from the time when the said Act shall come into operation in that part of India, without being admitted or enrolled, or having previously obtained a stamped certificate, in pursuance of the said Act, in the same manner as if such Act had not been passed.

High Court may permit person entitled, without examination, to a certificate authorizing him to practise as a Pleader in the Courts mentioned in Act No. XX of 1865, Section 10, Clause (c), to practise in Small Cause Courts.

IV. Whenever the High Court shall cause a certificate, whether original or renewed, authorizing the holder to practise as a Pleader in the Courts mentioned in Clause (*c*) of Section X. of the said Act, to be issued to a person entitled, under the proviso in Section V. of the same Act, to be admitted and enrolled as a Pleader in the High Court without passing any examination, the Court may in such certificate authorize the holder to practise as a Pleader in Small Cause Courts in addition to the Courts mentioned in the said Clause (*c*), and he shall thereupon be entitled to practise as last aforesaid, subject to the conditions contained in the said Act as to the duration of and stamp on a certificate authorizing the holder to practise as a Pleader in the Courts mentioned in the said Clause (*c*.)

Interpretation Clause.

V. In the construction of this Act and of the said Act No. XX. of 1865, the expression 'Office subordinate to such Board' and, in the construction of the latter Act, the expression 'Revenue Office,' shall be taken to apply to Collectors and Deputy Collectors trying suits under Act No. X. of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.*)

* Sections 1 and 2 extended to Sudder Court N. W. P. by Act IX of 1866.

ACT No. I. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th January 1866.)

An Act to amend Act No. XIX. of 1861 (to provide for a Government Paper Currency.)

1. *Addition to Section 9 of Act XIX. of 1861.*
2. *Short Title.*

Whereas it is expedient to amend Act No. XIX. of 1861 (*to provide for a Government Paper Currency*); It is enacted as follows :— Preamble.

I. The ninth Section of the said Act shall be read as if after the words "Provided that the said Head Commissioner, Commissioners, Deputy Commissioners, and Agents shall, in all cases, be entitled to require such silver bullion and foreign coin to be melted and assayed at the expense of the person tendering the same," the following words were inserted. (that is to say),— Addition to Section 9 of Act XIX of 1861.

"Every person so tendering bullion or foreign coin, and depositing the same in any such Office or Agency, shall be entitled to receive therefor a certificate signed by the person or persons authorized to issue the Notes aforesaid, which certificate shall acknowledge the receipt of such bullion or foreign coin, and shall state the value thereof, after deducting the expense of melting and assaying the same, and shall also state the interval (which the Governor-General in Council shall from time to time fix by notification in the Gazette of India) on the expiration of which, if such certificate be presented to such Office or Agency, the holder shall be entitled to receive Promissory Notes in exchange for the said bullion or foreign coin, at the rate and subject to the deduction aforesaid : and no person so tendering as aforesaid and receiving such certificate, shall be entitled to receive such Notes previous to the expiration of the interval so stated in the said certificate. But nothing herein contained shall preclude the person or persons so authorized from issuing, if he or they shall think fit, Notes in exchange for bullion or foreign coin at the rate and subject as aforesaid."

II. This Act shall be called "The Currency Act Amendment Act, 1866." Short Title.

ACT No. III. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 26th January 1866).

An Act to confer certain increased powers on the Registrars of the Recorders' Courts in British Burmah, and for other purposes.

1. *Power to Registrars appointed under Act XXI of 1863 to make certain interlocutory orders.*
2. *Such orders may be altered or reversed on application.*
3. *Application may be made to and disposed of by Registrar.*
4. *Registrar to take down evidence.*
5. *Appeal against orders made by Registrar.*
6. *Power to appeal to Recorder in his absence.*
7. *Power to Recorder to alter or reverse the order appealed against.*
8. *Time within which appeals to be brought.*
9. *Registrar to receive affidavits and administer oaths.*
10. *Trial of case in which Recorder is a party or witness.*
11. *Provision for vacancy of the Office of Recorder.*

12. Registrar's powers as a Small Cause Court Judge exerciseable by Recorder.
13. Power to appoint an Officiating Registrar.
14. Power to make rules of practice.
15. This Act to be read with Act XXI of 1863.

Preamble.

Whereas it is expedient to confer upon the several Registrars of the Recorders' Courts in British Burmah certain increased powers; It is enacted as follows :—

Power to Registrars appointed under Act XXI of 1863 to make certain interlocutory orders.

I. Every Registrar appointed under Act No. XXI. of 1863 (*to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Moulmein in British Burmah, and to establish Courts of Small Causes in the said Towns*) may, in the absence of the Recorder of the Court to which such Registrar is appointed, make all such orders for arrest before Judgment, for attachment of property before judgment, for the protection, management, and custody of property in dispute in any suit, for injunctions restraining breaches of contract or wrongful acts, as such Recorder if present might make.

Such orders may be altered or reversed on application.

II. Every order made by any Registrar in the exercise of the powers conferred upon him by this Act may be altered or reversed upon the application of any person, whether a party to the suit or not, who may deem himself to be aggrieved by such order.

Application may be made to and disposed of by Registrar.

III. Every such application may be made to and disposed of by the Registrar of the Court in which such order shall have been made in the absence of the Recorder of such Court.

Registrar to take down evidence.

IV. The Registrar to whom any such application shall be made, shall take down the evidence given upon the hearing of such application.

Appeal against orders made by Registrar.

V. Every order made by a Registrar in pursuance of this Act shall be subject to an appeal, under the general rules applicable to appeals from orders, to the Recorder of the Court by the Registrar of which such order shall have been made.

Power to appeal to Recorder in his absence.

VI. In case of the absence of the Recorder before whom the appeal is brought, the person appealing may make such application by way of petition, and may require the Registrar from whose order such appeal shall be brought, to transmit to such Recorder copies of such petition, and of all the evidence received by the Registrar upon the hearing of the application from the order upon which such appeal shall have been brought.

Power to Recorder to alter or reverse the order appealed against.

VII. Such Recorder may affirm, alter, or reverse the order from which such appeal shall be brought, or postpone the further consideration of such appeal until the next sittings of the Court in which such order shall have been made.

Time within which appeals to be brought.

VIII. No appeal from any order made by any Registrar under the powers conferred by this Act, nor any application to alter or reverse such order, shall be brought after the conclusion of the sittings of the Court in which such order shall shall have been made, which shall commence next after the making of such order.

Registrar to receive affidavits and administer oaths.

IX. Every Registrar appointed under the said Act shall have power to receive affidavits and to administer oaths and affirmations in all suits which may or shall be depending in any Court established under the said Act.

Trial in case in which Recorder is a party or witness.

X. In case the Recorder of any Court established under the said Act shall be a party, or a necessary witness to or in any suit or proceeding instituted in such Court, such suit or proceeding, and all applications therein, shall be heard and determined by the Commissioner of the Division in which such Court shall be situated, and such Commissioner shall in every such suit or proceeding have and exercise all the powers by the said Act or by this Act vested in such Recorder.

Provision for vacancy of the Office of Recorder.

XI. Upon the happening of a vacancy in the Office of Recorder, and during any absence of a Recorder from British Burmah, the Governor General of India in Council shall appoint any person with such qualifications as are required by the said Act in persons to be appointed Recorders, to perform the duties of Recorder. The person so appointed shall be authorized to sit and perform the duties of Recorder until some person shall have been appointed by the Governor-General in Council to the Office of Recorder, and shall have entered on the discharge of the duties of such Office, or until the Recorder shall have returned from such absence.

Registrar's powers as a Small Cause Court Judge exerciseable by Recorder.

XII. So far as regards Small Causes, all or any of the powers and duties conferred and imposed on any Registrar by this Act, or under or by virtue of Sections thirty-five and thirty-six of Act No. XXI. of 1863, may be exercised and performed by the Recorder of the Court to which such Registrar is attached.

Power to appoint an Officiating Registrar.

XIII. Whenever any person holding the Office of Registrar under Act No. XXI. of 1863, shall obtain leave of absence, or be disabled through illness from performing his duties, it shall be lawful for the Recorder of the Court to which such

Registrar is attached, or, in his absence, for the Commissioner of the Division in which such Court is situate, to appoint some person to officiate as Registrar; and such person while so officiating shall have the same powers and perform the same duties as the Registrar of such Court under this Act and any other law for the time being in force. Any person appointed under this Section may hold at the same time any other Office under Government.

Power to make rules of practice.

XIV. The Recorder of any Court established under the said Act shall have power to make and issue general rules for regulating the practice and procedure of his Court, and to prescribe forms for every proceeding therein for which he shall think that a form should be provided, and from time to time to alter any such rule or form; and the rules so made, and the forms so framed, shall be published in the Official Gazette, and after being so published shall be observed and used in the said Court: Provided that such rules and forms shall not be inconsistent with the Code of Civil Procedure or any other law for the time being in force, and shall, before they are published, have received the sanction of the Chief Commissioner of British Burmah.

This Act to be read with Act XXI of 1863.

XV. This Act shall be read with, and taken as part of, the said Act No. XXI. of 1863.

ACT No. IV. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 26th February 1865.)

An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

1. Interpretation of terms. "Punjab." "Lieutenant-Governor." "Chief Court." "Judge," "Registrar." "Magistrate." "Barrister." "Section." Number. Gender.

2. Constitution of Chief Court.

3. Precedence of Judges of Chief Court.

4. Tenure of office of Judges of Chief Court.

5. Declaration to be made by persons appointed Judges of Chief Court.

6. Appointment of Registrar.

7. Appointment and removal of Ministerial Officers.

8. Dismissal of Officers of Court.

9. Seal of Chief Court. Process to be sealed with Court Seal, and signed by Judge or Registrar.

10. Agent for Secretary of State, suitors and Advocates, &c., of High Court may appear and plead. Licensing of Pleaders. Rules regarding their qualifications and admission.

11. Power to suspend or revoke Pleaders license.

12. Fees of Pleaders to be subject to control.

13. The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

14. Extraordinary original Civil jurisdiction.

15. Power to transfer suits and appeals from one subordinate Court to another.

16. Power to call for record of cases decided by subordinate Courts.

17. Special appeal from Courts in Punjab to be only to Chief Court.

18. Regulation of proceedings in Civil suits.

19. In exercise of its Civil jurisdiction, law of the local Courts to apply.

20. Power to try European British subjects.

21. Charge to be delivered to Registrar with commitment of European British subject.

22. Chief Court to consider, and, if it will, to amend, alter or add to the charge. Charge with amendments, alterations or additions (if any) to be recorded.

23. Accused to have copies of examinations.

24. Effect of charge.

25. Chief Court may order an unsustainable charge not to be proceeded with. Effect of such order.

26. Places of holding sittings.
27. Procedure pending directions of Chief Court as to place of trial of European Britsh subject.
28. Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.
29. Trials under Section 20 to be by Jury.
30. Summoning of Jurors to serve on trials. Military men not exempt.
31. Jury for trial of European British subject.
32. Number of jury requisite to verdict of guilty.
33. Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.
34. Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.
35. Power to single Judge to reserve for Chief Court any question of law or evidence. Procedure where no such question reserved.
36. Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences and execution.
37. European British subjects to be amenable for offences committed in foreign territory.
38. Committing Magistrate to report to the Lieutenant-Governor.
39. If the offence is committed where there is a competent Court. Lieutenant-Governor may take steps to have trial there.
40. Form of warrant of commitment and of bail-bond.
41. Order of Lieutenant-Governor to be full authority.
42. Two Judges at least necessary to reverse or modify sentence or decrees of Sessions or Civil Judges.
43. Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.
44. Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.
45. Provisions as to proceedings pending in Judicial Commissioner's Court.
46. Procedure in case of difference of opinion between Judges when Court consists of only two.
1st.—On appeal on a question of fact.
2nd.—On appeal on a question of law.
3rd.—In exercise of original jurisdiction on a question of law.
4th.—In exercise of original jurisdiction on a question of fact.
47. Hearing and decision of referred cases.
48. Parties may appear in person, or by Advocate or Vakeel. Transmission of judgment of High Court and proceeding thereupon. Courts of reference to High Court.
49. Registers, books, accounts and statements to be kept and furnished by Chief Court. Copies of records to be furnished.
50. Chief Court's functions exerciseable by single Judge.
51. Sections 10, 11 and 12 not to be affected on extension to Punjab of Act XX of 1865.
52. Repeal of Act No. XXVII of 1865.
53. Short title.
54. Commencement of Act.

Preamble.

WHEREAS it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases ; And whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act ; It is enacted as follows :—

Interpretation of terms.

I. In this Act, unless there be something repugnant in the subject or context—

"Punjab."

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant Governor."

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge," "Registrar,"

"Judge," "Registrar," and other words denoting any particular Officer respectively include any person for the time being authorized to act as such Judge, Registrar or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland. "Barrister."

"Section" denotes a Section of this Act. "Section."

Words in the singular include the plural: words in the plural include the singular. Number.

Words importing the masculine gender include females. Gender.

II. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years standing: Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for the purpose. Constitution of Chief Court.

III. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges. Precedence of Judges of Chief Court.

IV. The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council. Tenure of office of Judges of Chief Court.

V. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same:— Declaration to be made by persons appointed Judges of Chief Court.

"I, A B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

VI. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under the forty-fourth Section. Appointment of Registrar.

VII. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act. Appointment and removal of Ministerial Officers.

VIII. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor. Dismissal of Officer of Court.

IX. The Chief Court shall have, and use as occasion may require, a seal with this inscription, "The seal of the Chief Court of the Punjab", to be made under the directions of the Lieutenant-Governor; and all summonses, decrees and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court. Seal of Chief Court. Processes to be sealed with Court Seal, and signed by Judge or Registrar.

X. Any person duly authorized by the Secretary of State for India in Council to appear, plead or act on his behalf; (2) any suiter appearing, pleading or acting on his own behalf or on behalf of a co-suiter; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court. Agent for Secretary of State, suitors and Advocates, &c., of High Courts may appear and plead. Licensing of Pleaders. Rules regarding their qualifications and admission.

XI. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter. Power to suspend or revoke Pleaders license.

XII. The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees as shall be allowed under the forty-fourth Section. Fees of Pleaders to be subject to control.

XIII. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether The Chief Court to be the ultimate Court of Appeal from the

Civil and Criminal Courts in the Punjab.

relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that when a Settlement of Land Revenue shall be in progress, and the Local Government, under Act No. XIX. of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

Extraordinary original Civil jurisdiction.

XIV. The Chief Court may remove and try and determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so either on the agreement of the parties to that effect, or for purposes of justice.

Power to transfer suits and appeals from one subordinate Court to another.

XV. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to call for record of cases decided by subordinate Courts.

XVI. The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

Special appeal from Courts in Punjab to lie only to Chief Court.

XVII. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Regulation of proceedings in Civil suits.

XVIII. Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the rules relating to Civil procedure for the time being in force in the Punjab.

In exercise of its Civil jurisdiction, law of the local Courts to apply.

XIX. In the exercise of its Civil jurisdiction, Original as well as Appellate, such rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

Power to try European British subjects.

XX. The Chief Court shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Charge to be delivered to Registrar with commitment of European British subject.

XXI. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Chief Court to consider, and, if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

XXII. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Accused to have copies of examinations.

XXIII. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

XXIV. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal

Procedure as to the amendment and alterations of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Chief Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

XXV. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Places of holding sittings.

XXVI. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab; but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

Procedure pending directions of Chief Court as to place of trial of European British subject.

XXVII. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in the twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which he is directed to be tried; and the Officer in charge of such Criminal jail shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

XXVIII. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

XXIX. All trials under the twentieth Section shall be by Jury.

Summoning of Jurors to serve on trials.

XXX. Whenever the Chief Court shall have given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Section three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

Jury for trial of European British subject.

XXXI. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans or both Europeans and Americans.

Number of Jury requisite to verdict of guilty.

XXXII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less

than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

XXXIII. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a Statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

Portion of 29th Chapter of Criminal Procedure Code not to apply to sentences of Courts.

XXXIV. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to single Judge to reserve for Chief Court any question of law or evidence.

Procedure where no such question reserved.

XXXV. When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original Criminal Jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the Jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in the three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to Jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences and execution.

XXXVI. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction and to trials before such Court and to sentences by such Court and to the carrying into execution of such sentences.

European British subjects to be amenable for offences committed in foreign territory.

XXXVII. Every European British subject apprehended within the Punjab or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

Committing Magistrate to report to the Lieutenant-Governor.

XXXVIII. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

XXXIX. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

Form of warrant of commitment and of bail-bond.

XL. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

Order of Lieutenant Governor to be full authority.

XLI. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

XLII. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.

XLIII. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

XLIV. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Court for which it shall think necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette and after being so published shall be used and observed in the Chief Court: Provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.

XLV. Repealed by Act XIV. of 1870.

XLVI. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

Procedure in case of difference of opinion between Judges when Court consists of only two.

(*1st.*)—If the case be heard in appeal and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

1st.—On appeal on a question of fact.

(*2nd.*)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and, may pass a decree contingent upon the opinion of the High Court on the point referred: but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

2nd.—On appeal on a question of law.

(*3rd.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last herein before provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under the thirty-fifth Section.

3rd.—In exercise of original jurisdiction on a question of law.

(*4th.*) If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

4th.—In exercise of original jurisdiction on a question of fact.

XLVII. Cases referred under this Act for the opinion of the Court of Judicature at Calcutta shall be heard by not less than three Judges of the Court, and shall be determined according to the opinion of the majority of such Judges.

Hearing and decision of referred cases.

XLVIII. The parties to such cases may appear, plead and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court under the forty-sixth Section, shall be costs in he suit.

Parties may appear in person, or by Advocate or Vakeel.

Transmission of judgment of High Court and proceedings thereupon.

Costs of reference to High Court.

XLIX. The Chief Court shall keep such registers, books and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such

Registers, books, accounts and statements to be kept and furnished by Chief Court.

Copies of records to be furnished.

requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Chief Court's function exercisable by single Judge.

L. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

Sections 10, 11 and 12 not to be affected on extension to Punjab of Act XX of 1865.

LI. Whenever the Lieutenant-Governor of the Punjab, shall, under the authority vested in him by Section forty-seven of the Pleaders, Mooktars and Revenue Agents' Act 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections ten, eleven and twelve of this Act.

LII. Repealed by Act XIV. of 1870.

Short title.

LIII. This Act may be cited as "The Punjab Chief Court Act, 1866."

LIV. Repealed by Act XIV. of 1870.

ACT No. V OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd February 1866.)

An Act to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India.

1. Interpretation Clause. "British India." "High Court." "Local Government."
2. In all suits upon Bills of Exchange, &c., if plaintiff desires to proceed under this Act, summons shall be in the form given in the Schedule.
3. Defendant showing a defence upon the merits to have leave to appear.
4. Courts may under special circumstances, set aside decree.
5. Court may order Bill to be deposited with Officer of Court in certain cases.
6. Remedy for recovery of cost of noting non-acceptance of dishonored Bill.
7. Civil Procedure Code and rules made thereunder to apply to proceedings under this Act.
8. Local Government may extend Act.
9. Consideration for guarantee need not appear by writing.
10. Guarantee to or for a Firm to cease upon a change in the Firm, except in special cases.
11. Acceptance of a Bill, Inland or Foreign, to be in writing on it, and signed.
12. What are to be deemed "Inland Bills."
13. Protest by Notary Public to be prima facie evidence of dishonour.
14. Suits on lost negotiable instruments.
15. Rights under marine and fire policies to vest in assignees.

Preamble.

WHEREAS it is expedient to provide a summary procedure for the recovery of money due on dishonoured Bills of Exchange, Hundis and Promissory Notes ; and whereas inconvenience is felt by persons engaged in trade by reason of the laws of British India being in some particulars different from those of England in matters of common occurrence in the course of such trade ; and whereas, with a view to remedy such inconvenience, it is expedieent to amend the laws of British India as herein fter is mentioned ; It is enacted as follows :—

Interpretation Clause.

I. In this Act, unless there be something repugnant in the subject or context—

"British India."

"British India" shall mean the territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*):

"High Court."

"High Gourt" shall mean the High Court of Judicature at Calcutta, Madras or Bombay, as the case may be:

"Local Government."

And in every part of British India in which this Act shall operate, "Local Government" shall mean the person authorized by law to administer executive government in such part.

II. From and after the first day of May 1866, all suits upon Bills of Exchange, Hundis or Promissory Notes commenced in any High Court within six calendar months after the same shall have become due and payable, may, in case the plaintiff shall desire to proceed under this Act, be commenced as hereinafter is mentioned, (that is to say) the plaint shall be in the form prescribed by the Code of Civil Procedure; but the summons shall be in the form contained in the Schedule to this Act; and in any case in which the plaint and summons shall be in such forms respectively, it shall not be lawful for the defendant to appear to or defend the suit unless he shall obtain leave from a Judge as hereinafter mentioned so to appear and defend; and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

From and after 1st May 1866, in all suits upon Bills of Exchange, &c., if plaintiff desires to proceed under this Act, the summons shall be in the form given in the Schedule.

III. The High Court shall, upon application within the period of seven days from the service of such summons, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon affidavits satisfactory to the Court, which disclose a defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as to the Court may seem fit.

Defendant showing a defence upon the merits to have leave to appear.

IV. After decree, the High Court may, under special circumstance, set aside the decree, and if necessay stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it shall seem reasonable to the Court so to do and on such terms as to the Court may seem just.

Court may, under special circumstances, set aside decree.

V. In any proceedings under this Act, it shall be competent to the High Court to order the Bill or Note sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and further to order that all proceedings shall be stayed until the plaintiff shall have given security for the costs thereof.

Court may order Bill to be deposited with Officer of Court in certain cases.

VI. The holder of every dishonoured Bill of Exchange or Promissory Note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this Act for the recovery of the amount of such Bill or Note.

Remedy for recovery of cost of noting non-acceptance of dishonoured Bill.

VII. The provisions of the Code of Civil Procedure, and all rules made under or by virtue of the said Code shall, so far as the same are or may be made applicable, extend and apply to all proceedings to be had or taken under this Act.

Civil Procedure Code and rules made thereunder to apply to proceedings under this Act.

VIII. It shall be lawful for the Local Government to direct that all or any part of the provisions in Sections 2 to 7, both inclusive, of this Act shall, *mutatis mutandis*, apply to all or any Courts or Court in the territories under such Government, other than a High Court, and within one month after such order shall have been made and published in the Official Gazette, such provisions shall extend and apply in manner directed by such order, and any such order may be in like manner from time to time altered and annulled. In and by any such order the Local Government may direct by whom any powers or duties incident to the provisions applied under this Act, shall and may be exercised with respect to matters in such other Courts or Court, and may make any orders or regulations which may be deemed requisite for carrying into operation in such Courts or Court the provisions so applied.

Local Government may extend Act.

IX. No special promise to be made by any person after the passing of this Act to answer for the debt, default or miscarriage of another person, being in writing, and signed by the party to be charged therewith or some other person by him thereunto lawfully authorized, shall be deemed invalid to support a suit to charge the person by whom such promise shall have been made, by reason only that the consideration for such promise does not appear in writing, or by necessary inference from a written document.

Consideration for guarantee need not appear by writing.

X. No promise to answer for the debt, default or miscarriage of another made to a Firm consisting of two or more persons, or to a single person trading under the name of a Firm, and no promise to answer for the debt, default or miscarriage of a Firm, consisting of two or more persons, or of a single person trading under the name of a Firm, shall be binding on the person making such promise in respect of any thing done or omitted to be done after a change shall have taken place in any one or more of the persons constituting the Firm, or in the person trading under the name of a Firm, unless the intention of the parties, that such promise shall continue to be binding notwithstanding such change, shall

Guarantee to or for a Firm to cease upon a change in the Firm, except in special cases.

appear either by express stipulation or by necessary implication from the nature of the Firm or otherwise.

Acceptance of a Bill, Inland or Foreign, to be in writing on it, and signed.

XI. No acceptance of any Bill of Exchange, whether Inland or Foreign, made after the first day of May 1866, shall be sufficient to bind or charge any person, unless the same be in writing on such Bill, or, if there be more than one part of such Bill, on one of the said parts, and signed by the acceptor or some person duly authorized by him.

What are to be deemed "Inland Bills."

XII. Every Bill of Exchange or Promissory Note drawn or made in any part of British India, and made payable in or drawn upon any person resident in any part of British India, shall be deemed to be an Inland Bill; but nothing herein contained shall alter or affect the stamp duty, if any, which, but for this enactment, would be payable in respect of any such Bill or Note.

Protest by Notary Public to be *primâ facie* evidence of dishonour.

XIII. Protest of a Bill of Exchange, whether Inland or Foreign, when purporting to be made by a Notary Public, shall be *primâ facie* evidence that the Bill has been dishonoured.

Suits on lost negotiable instruments.

XIV. In case of any suit founded upon a Bill of Exchange or other negotiable instrument, if it shall be proved to the satisfaction of the Court that the instrument, is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, it shall be lawful for the Court to make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Rights under Marine and fire policies to vest in assignees.

XV. Every assignee, by endorsement or otherwise, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred to and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

SCHEDULE.

No. of Suit.

In the High Court of at

Plaintiff
Defendant

To [*here enter the defendant's name, description and address*].

Whereas [*here enter the plaintiff's name, description and adress*] has instituted a suit in this Court against you under Act No. V. of 1866 (*to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India*) for Rs. principal and interest [or Rs. balance of principal and interest] due to him as the Payee [*or* Indorsee] of a Bill of Exchange [*or* Hundí *or* Promissory Note] of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defent the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs. [*here state the sum claimed*] and the sum of Rs. for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[*Here copy the Bill of Exchange Hundí or Promissory Note, and all endorsements upon it*]

ACT No. VI. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd March 1866).

An Act to continue Act No. XXXI of 1860 (relating to the manufacture, importation and sale of arms and ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases) and for other purposes.

1. Repeal of Act No. VI of 1865 and of part of Section 55 of Act No. XXXI of 1860. Rest of Act No. XXXI of 1860 continued.
2. Licenses to bear arms may be granted on conditions.
3. Amendment of Section 27 of Act No. XXXI of 1860.
4. Short Title.

WHREAS Act No. XXXI of 1860 as continued by Act No. VI of 1865 will expire on the first day of October 1866 ; and whereas it is expedient to continue the said Act No. XXXI of 1860 with such modifications as are hereinafter mentioned ; and whereas it is desirable to render the license mentioned in the 26th and other Sections of the same Act grantable upon conditions, and to enable the local Governments to exempt classes of persons, Districts and parts of Districts from the operation of Sections 25 and 26 of the same Act ; It is enacted as follows :— Preamble.

I. Act No. VI of 1865 and the second Clause of Section 55 of Act No. XXXI of 1860 are hereby repealed ; but the rest of the Act last hereinbefore mentioned shall, subject to the modifications hereinafter mentioned, continue in force from the passing of this Act until the Governor-General of India in Council shall by an order published in the Gazette of India declare otherwise. Repeal of Act No. VI of 1865 and of part of Section 55 of Act No. XXXI of 1860. Rest of Act No. XXXI of 1860 continued.

II. The license mentioned in Sections 26, 28, 29, and 30 of the said Act No. XXXI of 1860 may be granted by the Magistrate or other person specially authorized to grant the same, subject to such condition or conditions, if any, as such Magistrate or other person shall think fit ; and on breach of any such condition, or failure to comply therewith, such license shall thereupon be null and void. Licenses to bear arms may be granted on conditions.

III. For the last Clause of Section 27 of the same Act, the following words shall be substituted, (that is to say) " Such other person, classes of persons, Districts or parts of Districts as the local Government may by notification in the Official Gazette from time to time exempt from such provisions." Amendment of Section 27 of Act No. XXXI of 1860.

IV. This Act may be cited as " The Arms' Act Continuance Act, 1866. Short title.

ACT No. IX. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 9th March 1866.)

An Act to extend to the Sudder Court of the North-Western Provinces certain provisions of " The Pleaders, Mookhtars and Revenue Agents' Act, 1865" and of Act No. XXIX of 1865.

1. Power to Sudder Court, N. W. P., to make rules as to Pleaders, and Mookhtars of such Court.
2. Certain provisions contained in Act No. XX of 1865 to apply to Pleaders and Mookhtars practising in such Court.
3. This Act to be read with Act No. XX of 1865.

WHEREAS it is expedient to extend to the Sudder Court of the North-Western Provinces certain provisions of " The Pleaders, Mookhtars and Revenue Agents' Act, 1865" and of Act No. XXIX of 1865 ; It is enacted as follows:— Preamble.

I. Notwithstanding any thing contained in "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," the said Sudder Court shall have power to make rules for the qualification, admission and enrolment of proper persons to be Pleaders and Mookhtars of such Court, for the fees to be paid for the examination, admission and enrolment of such persons, and, subject to the provisions contained in the same Act, for the suspension and dismissal of the Pleaders so admitted and enrolled. The said Court may also from time to time vary and add to such rules. Power to Sudder Court. N. W. P., to make rules as to Pleaders and Mookhtars of such Court.

Certain provisions contained in Act No. XX of 1865 and in Act No. XXIX of 1865 to apply to Pleaders and Mookhtars practising in such Court.

This Act to be read with Act No. XX of 1865.

II. The provisions contained in Sections 5 to 12 (both inclusive), 14, 15, 18, 37, 39 and 41 of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," and in Sections 1 and 2 of Act No. XXIX of 1865, shall, *mutatis mutandis*, apply to Pleaders and Mookhtars practising in the said Sudder Court.

III. This Act shall be read with and taken as part of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865."

THE INDIAN COMPANIES' ACT, 1866.

ARRANGEMENT OF SECTIONS.

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SECTION.
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2. Commencement of Act.
3. Interpretation Clause.
4. Prohibition of partnerships exceeding certain number.
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CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

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6. Mode of forming Company.
7. Mode of limiting liability of members.
8. Memorandum of association of a Company limited by shares.
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10. Memorandum of association of an Unlimited Company.
11. Stamp, signature and effect of memorandum of association.
12. Power of certain Companies to alter memorandum of association.
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Articles of Association.

14. Regulations to be prescribed by Articles of Association.
15. Application of Table A.
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17. Registration of memorandum of association and Articles of Association with fees in Table B.
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PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

21. Nature of interest in Company.
22. Definition of "Member."
23. Transfer by personal representative.
24. Register of Members.
25. Annual list of Members.
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27. Company to give notice of consolidation or of conversion of capital into stock.

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28. Effect of conversion of shares into stock.
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51. Definition of Special Resolution.
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58. Inspection of books.
59. Result of examination how dealt with.
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113. Appointment of Official Liquidator.
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115. Style and duties of Official Liquidator.
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ACT No. X OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th March 1866.)

An Act for the incorporation, regulation, and winding-up of Trading Companies and other Associations.

Preamble.

WHEREAS it is expedient that the law relating to the incorporation, regulation and winding-up of Trading Companies and other Associations should be consolidated and amended; It is enacted as follows:—

Preliminary.

Short Title.

I. This Act may be cited for all purposes as "The Indian Companies' Act, 1866."

Commencement of Act.

II. This Act shall come into operation on the first day of May 1866, and the time at which it so comes into operation is hereinafter referred to as the commencement of this Act.

Interpretation clause.

III. In this Act, unless there be something repugnant in the subject or context.:—

"British India."

"British India" means the Territories which are or may become vested in Her Majesty or successors by the Statute 21 and 22 Vic., Cap. 106, entitled "An Act for the better Government of India:"

"Year." "Month."

"Year" and "month" respectively denote a year and month reckoned according to the British calendar:

"Insurance Company."

An "Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses:

"Court."

"Court" means the principal Civil Court of original jurisdiction in a District, and includes the High Court in the exercise of its ordinary original Civil jurisdiction;

"District Court."

"District Court" means the principal Civil Court of original jurisdiction in a District, but does not include the High Court in the exercise of its ordinary original Civil jurisdiction;

"Local Government." "High Court."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such part and includes a Chief Commissioner; and "High Court" denotes the highest Civil Court of appeal therein.

Prohibition of partnership exceeding certain number.

IV. No Company, Association or Partnership consisting of more than ten persons shall be formed, after the commencement of this Act, for the purpose of carrying on the business of banking, unless it is registered as a company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor-General of India in Council, or by Royal Charter or Letters Patent; and no Company, Association or Partnership consisting of more than twenty persons shall be formed, after the commencement of this Act, for the purpose of

carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

Division of Act.

V. This Act is divided into nine Parts relating to the following subject matters :—

The first Part—to the constitution and incorporation of Companies and Associations under this Act :

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act :

The third Part—to the management and administration of Companies and Associations under this Act :

The fourth Part—to the winding-up of Companies and Associations under this Act :

The fifth Part—to the Registration Office :

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations either with or without limited liability of the members thereof*), and Act No. VII of 1860 (*to enable Joint Stock Banking Companies to be formed on the principle of limited liability*), or either of them :

The seventh Part—to Companies authorized to register under this Act :

The eighth Part—to the application of this Act to unregistered Companies :

The ninth Part—to repeal of Acts.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

Mode of forming Company.

VI. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association, and otherwise Complying with the requisition of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Mode of limiting liability of members.

VII. The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Memorandum of association of a Company limited by shares.

VIII. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things; (that is to say)—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name :

(2.) The part of British India in which the registered Office of the Company is proposed to be situate :

(3.) The objects for which the proposed Company is to be established :

(4.) A declaration that the liability of the members is limited:

(5.) The amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount.

Subject to the following regulations:—

(1.) That no subscriber shall take less than one share.

(2.) That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

Memorandum of association of a Company limited by guarantee.

IX. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up, hereinafter referred to as a Company limited by guarantee, the memorandum of association shall contain the following things; (that is to say)—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name :

(2.) The part of British India in which the registered Office of Company is proposed to be situate :

(3.) The objects for which the proposed Company is to be established:

(4.) A declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be

a member, and of the costs, charges and expenses of winding up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

Memorandum of association of an unlimited Company.

X. Where a Company is formed on the principal of having no limit placed on the liability of its members, hereinafter referred to as an Unlimited Company the memorandum of association shall contain the following things; that is to say)—

(1.) The name of the proposed Company:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established.

Stamp, signature, and effect of memorandum of association.

XI. The memorandum of association shall bear the same stamp as if it were a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto and there were in the memorandum contained on the part of himself, his heirs, executors and administrators, a covenant to observe all the conditions of such memorandum, subject to the provisions of this Act.

Power of certain Companies to alter memorandum of association.

XII. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as orginally framed, or as altered by Special Resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid-up shares into stock, but save as aforesaid, and save as hereinafter provided in the case of a change of name, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Power of Companies to change name.

XIII. Any Company under this Act, with the sanction of a Special Resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall effect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Articles of Association.

Regulations to be prescribed by Articles of Association.

XIV. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by Articles of Association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient. The Articles shall be expressed in separate paragraphs, numbered arithmetically: They may adopt all or any of the provisions contained in the Table marked A in the first Schedule hereto: They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company is proposed to be registered; and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration. In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

Application of Table A.

XV. In the case of a Company limited by shares, if the memorandum of association is not accompanied by Articles of Association, or, in so far as the Articles do not exclude or modify the regulations contained in the Table marked A in the first Schedule hereto, the last mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company in the same manner and to the same extent as if they had been inserted in Articles of Association and the Articles had been duly registered.

Stamp, signature, and effect of Articles of Association.

XVI. The Articles of Association shall be printed, they shall bear the same stamp as if they were contained in a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. When

registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in such Articles contained a covenant on the part of himself, his heirs, executors and administrators, to conform to all the regulations contained in such Articles, subject to the provisions of this Act. All monies payable by any member to the Company, in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provisions.

Registration of memorandum of association and Articles of Association with fees as in Table B.

XVII. The memorandum of association and the Articles of Association, if any, shall be delivered to the Registrar of Joint Stock Companies hereinafter mentioned, who shall retain and register the same. There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the Table marked B in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the Table marked C in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council may from time to time direct. All fees paid to the said Registrar in pursuance of this Act shall be accounted for to Government.

Effect of registration.

XVIII. Upon the registration of the memorandum of association and of the Articles of Association in cases where Articles of Association are required by this Act, or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a Limited Company that the Company is limited; the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a Body Corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company in the event of the same being wound up, as is hereinafter mentioned. A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

Copies of memorandum and Articles to be given to members.

XIX. A copy of the memorandum of association having annexed thereto the Articles of Association, if any, shall be forwarded to every member, at his request, on payment of the sum of one Rupee, or such less sum as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and Articles of Association, if any, to a member in pursuance of this Section, the Company so making default shall for each offence incur a penalty not exceeding twenty rupees.

Prohibition against identity of names in Companies.

XX. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires. If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first mentioned Company may, with the sanction of the Registrar, change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

Nature of interest in Company.

XXI. The shares or other interest of any member in a Company under this Act shall be moveable property capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate

or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

Definition of "Member.

XXII. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the Register of Members hereinafter mentioned, and every other person who has agreed to become a member of a Company under this Act, and whose name is entered on the Register of Members, shall be deemed to be a member of the Company.

Transfer by personal representative.

XXIII. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

Register of Members.

XXIV. Every Company under this Act shall cause to be kept in one or more books a Register of its members, and there shall be entered therein the following particulars :—

(1.) The names and addresses, and the occupations, if any, of the members, of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number; and of the amount paid or agreed to be considered as paid on the shares of each member :

(2.) The date at which the name of any person was entered in the Register as a member :

(3.) The date at which any person ceased to be a member.

Any Company acting in contravention of this Section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this Section continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such contravention shall incur the like penalty.

Annual list of members.

XXV. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the Ordinary General Meeting, or if there is more than one Ordinary Meeting in each year, the first of such Ordinary General Meetings is held, are members of the Company. Such list shall state the names, addresses, and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars :—

(1.) The amount of the capital of the Company and the number of shares into which it is divided :

(2.) The number of shares taken from the commencement of the Company up to the date of the summary :

(3.) The amount of calls made on each share :

(4.) The total amount of calls received :

(5.) The total amount of calls unpaid :

(6.) The total amount of shares forfeited :

(7.) The names, addresses, and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the Register, and shall be completed within seven days after such fourteenth day as is mentioned in this Section, and a copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.

Penalty on Company, &c., not keeping a proper Register.

XXVI. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of members or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Company to give notice of consolidation or of conversion of capital into stock.

XXVII. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares or converted any portion of its capital into stock, shall within fifteen days of such consolidation, division or conversion, give notice to the Registrar of Joint Stock Companies of the same, specifying the shares so consolidated, divided or converted.

Effect of conversion of shares into stock.

XXVIII. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock, and given notice

of such conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the Register of Members hereby required to be kept by the Company, and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list instead of the amount of shares and the particulars relating to shares hereinbefore required.

Entry of trusts on Register.

XXIX. No notice of any trust, express, implied or constructive, shall be entered on the Register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

Certificate of shares of stock.

XXX. A certificate under the common seal of the Compay, specifying any share or shares or stock held by any member of a Company, shall be *primâ facie* evidence of the title of the member to the share or shares or stock therein specified.

Inspection of Register.

XXXI. The Register of Members, commencing from the date of the registration of the Company, shall be kept at the registered Office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in General Meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee or such less sum as the Company may prescribe for each inspection. Every such member or other person may require a copy of such Register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied. If such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues. Every Director and Manager of the Company who shall knowingly authorize or permit such refusal shall incur the like penalty. In addition to the above penalty, any Judge of a High Court may by order compel an immediate inspection of the Register.

Power to close Register.

XXXII. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the District in which the registered Office of the Company is situated, close the Register of Members for any time or times not exceeding in the whole thirty days in each year.

Notice of increase of capital and of members to be given to Registrar.

XXXIII. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and, where a Company has not a Capital divided into shares, notice of any increase in the number of members beyond the registered number shall be given to the Registrar, in the case of an increase of capital within fifteen days from the date of the passing of the Resolution by which such increase has been authorized, and in the case of an increase of members within fifteen days from the time at which such increase of members has been resolved on or has taken place, and the Registrar shall forthwith record the amount of such increase of capital or members. If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues, and every Director and Mauager of the Company, who shall knowingly and wilfully authorize or permit such default, shall incur the like penalty.

Remedy for improper entry or omission of entry in Register.

XXXIV. If the name of any person is without sufficient cause entered in, or omitted from, the Register of Members of any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the Register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original Civil jurisdiction in the District or place in which the registered Office of the Company is situate, apply for an order of the Court that the Register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the Justice of the case, make and order for the rectification of the Register and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained. The Court may in any proceeding under this Section decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the Register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the Register; provided that the Court may direct an issue to be tried in which any question of law may be raised, and an appeal in the manner directed by the Code of Civil Procedure shall lie.

XXXV. Whenever any order has been made for rectifying the Register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

Notice to Registrar of rectification of Register.

XXXVI. The Register of Members shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Register to be evidence.

Liability of Members.

XXXVII In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company, and the costs, charges and expenses of the winding-up and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following : (that is to say)—

Liability of present and past members of Company.

(1.) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up :

(2.) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member :

(3.) No past member shall be liable to contribute to the assets of the Company, unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act :

(4.) In the case of a Company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member :

(5.) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association :

(6.) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract, whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract :

(7.) No sum due to any member of a Company in his charter of a member by way of dividents, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company ; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

XXXVIII. Every Company under this Act shall have a registered Office to which all communications and notices may be adressed. If any Company under this Act carries on business without having such an Office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

Registered Office of Company.

XXXIX. Notice of the situation of such registered Office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered Office.

Notice of situation of registered Office.

XL. Every limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every Office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible in the English language, and also if the registered Office be situate in a District beyond the local limits of the ordinary original Civil jurisdiction of a High Court, in one of the vernacular languages used in such District, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements and other official publications of such Company, and in all Bills of Exchange, Hundis, Promissory Notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

Publication of name by a Limited Company.

Penalties on non-publication of name.

XLI. If any limited Company under this Act does not paint or affix and keep painted or affixed its name, in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name and for every day during which such name is not so kept painted or affixed. Every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall be liable to the like penalty. If any Director, Manager or Officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company, any Bill of Exchange, Hundi, Promissory Note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such Bill of Exchange, Hundi, Promissory Note, cheque or order for money or goods, for the amount thereof unless the same is duly paid by the Company.

Contracts how made.

XLII. Contracts on behalf of any Company registered under this Act may be made as follows; (that is to say)—

(1.) Any contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the Company in writing under the common seal of the Company, and such contract may be in the same manner varied or discharged,

(2.) Any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company, and such contract may in the same manner be varied or discharged:

(3.) Any contract which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company, and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

Register of mortgages.

XLIII. Every Limited Company under this Act shall keep a Register of all mortgages and charges specifically affecting property of the Company, and shall enter in such Register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge. If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every Director, Manager or other Officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees. The Register of mortgages required by this Section shall be open to inspection by any creditor or member of the Company at all reasonable times. If such inspection is refused, any Officer of the Company refusing the same, and every Director and Manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees for every day during which such refusal continues. In addition to the above penalty any Judge of the High Court may by order compel an immediate inspection of the Register.

Certain Companies to publish statement entered in Schedule.

XLIV. Every Limited Banking Company and every Insurance Company, and Deposit, Provident or Benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first Schedule hereto, or as near thereto as circumstances will admit, and a copy of such statement shall be put up in a conspicuous place in the registered office of the Company and in every branch Office or place where the business of the Company is carried on. If default is made in compliance with the provisions of this Section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorized or permit such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this Section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding eight annas.

XLV. Every Company under this Act and not having a capital divided into shares shall keep at its registered Office a Register containing the names and addresses and the occupations of its Directors or Managers, and shall send to the Registrar of Joint Stock Companies a copy of such Register, and shall from time to time notify to the Registrar any change that takes place in such Directors or Managers.

List of Directors to be sent to Registrar.

XLVI. If any Company under this Act and not having a capital divided into shares, makes default in keeping a Register of its Directors or Managers, or in sending a copy of such Register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such Directors or Managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Penalty on Company not keeping Register of Directors.

XLVII. A Promissory Note, Bill of Exchange or Hundi shall be deemed to have been made, accepted, or endorsed on behalf of any Company under this Act, if made, accepted, or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, accepted, or endorsed by or on behalf or on account of the Company, by any person acting under the authority of the Company.

Promissory Notes, Bills of Exchange and Hundis.

XLVIII. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

Prohibition against carrying on business with less than seven members.

Provisions for Protection of Members.

XLIX. A General Meeting of every Company under this Act shall be held once at the least in every year. A balance-sheet shall be made out in every year, and laid before the Company in General Meeting and filed with the Registrar of Joint Stock Companies, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first Schedule hereto or as near thereto as circumstances admit. And once at the least in every year the accounts of the Company shall be Examined and the correctness of the balance-sheet ascertained by one or more auditor or auditors. If default is made in compliance with any of the provisions of this Section, every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall be liable to a penalty of one thousand rupees.

General Meeting of Company. Balance-Sheet.

Audit.

L. Subject to the provisions of this Act; and to conditions contained in the Memorandum of Association, any Company formed under this Act may, in General Meeting, from time to time, by passing a Special Resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the Articles of Association, or in the Table marked A in the first Schedule where such Table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company. Any regulations so made by Special Resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the Articles of Association, and shall be subject in like manner to be altered or modified by any subsequent Special Resolution.

Power to alter regulations by Special Resolution.

LI. A Resolution passed by a Company under this Act shall be deemed to be special whenever a Resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed), at any General Meeting of which notice specifying the intention to propose such Resolution has been duly given, and such Resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent General Meeting of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such Resolution was first passed. At any meeting mentioned in this Section, unless a poll is demanded by at least five members, a declaration of the Chairman that the Resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number

Definition of Special Resolution.

or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall, for the purposes of this Section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company. In computing the majority under this Section, when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

Provision where no regulations as to meetings.

LII. In default of any regulations as to voting every member shall have one vote, and in default of any regulations as to summoning General Meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the Table marked A in the first Schedule hereto. In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and in default of any regulations as to who is to be Chairman of such meeting, it shall be competent for any person elected by the members present to preside.

Registry of Special Resolutions.

LIII. A copy of every Special Resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies, and be recorded by him. If such copy is not so forwarded within fifteen days from the date of the confirmation of the Resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded, and every Director and manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Copies of Special Resolutions.

LIV. Where Articles of Association have been registered, a copy of every Special Resolution for the time being in force shall be annexed to or embodied in every copy of the Articles of Association that may be issued after the passing of such Resolution. Where no Articles of Association have been registered, a copy of every Special Resolution shall be forwarded in print to any member requesting the same, on payment of one rupee or such less sum as the Company may direct. If any Company makes default in complying with the provisions of this Section, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Execution of deeds abroad.

LV. Any Company under this Act may, by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its Attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such Attorney on behalf of the Company and under his seal, shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

Examination of affairs of Company by Inspectors.

LVI. The Local Government may appoint one or more competent Inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following; (that is to say)—

(1.) In the case of a Banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(2.) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the Register of the Company as members.

Application for inspection to be supported by evidence.

LVII. The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same. The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any Inspector or Inspectors.

Inspection of books.

LVIII. It shall be the duty of all Officers and Agents of the Company to produce for the examination of the Inspectors all books and documents in their custody or power. Any Inspector may examine upon oath or affirmation the Officers and Agents of the Company in relation to its business, and may administer such oath or affirmation accordingly. If any such Officer or Agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each offence.

Result of Examination how dealt with.

LIX. Upon the conclusion of the examination, the Inspectors shall report their opinions to the Local Government. Such report shall be written or printed

as the Local Government directs. A copy shall be forwarded by the Local Government to the registered Office of the Company, and a further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them or to any one or more of them. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the Inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

Power of Company to appoint Inspectors.

LX. Any Company under this Act may, by a Special Resolution, appoint Inspectors for the purpose of examining into the affairs of the Company. The Inspectors so appointed shall have the same powers and perform the same duties as Inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in General Meeting directs. The Officers and Agents of the Company shall incur the same penalties, in case of any refusal to produce any book or document hereby required to be produced to such Inspectors or to answer any question, as they would have incurred if such Inspectors had been appointed by the Local Government.

Report of Inspector to be evidence.

LXI. A copy of the report of any Inspectors appointed under this Act authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the Inspectors in relation to any matter contained in such report.

Notices.

Service of notices on Company.

LXII. Any summons, notice, order or other document required to be served upon the Company, may be served by leaving the same, or sending it through the Post by a registered letter addressed to the Company, at their registered Office; and any notice to the Registrar of Joint Stock Companies may be served by sending it to him through the Post by a registered letter, or by delivering it to him, or by leaving it for him at his Office.

Rules as to notices by letter.

LXIII. Every document to be served by Post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the Post Office.

Authentication of notices by Company.

LXIV. Any summons, notice, order or proceeding requiring authentication by the Company, may be signed by any Director, Secretary, or other authorized Officer of the Company, and need not be under the common seal of the Company, and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

Evidence of proceedings at meetings.

LXV. Every Company under this Act shall cause Minutes of all Resolutions and proceedings of General Meetings of the Company, and of the Directors or Managers of the Company in cases where there are Directors or Managers, to be duly entered in books to be from time to time time provided for the purpose; and any such Minute as aforesaid, if purporting to be signed by the Chairman of the meeting at which such Resolutions were passed or proceedings had, or by the Chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings. Until the contrary is provided, every General Meeting of the Company or meeting of Directors or Managers in respect of the proceedings of which Minutes have been so made shall be deemed to have been duly held and convened, and all Resolutions passed thereat or proceedings had, to have been duly passed and had, and all appointments of Directors, Managers or Liquidators shall be deemed to be valid, and all acts done by such Directors, Managers, or Liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Provision as to costs in suits brought by certain Limited Companies.

LVI. Where a Limited Company is plaintiff in any suit, any Judge having jurisdiction in the matter may, if it appears by any credible testimony that there is reason to belive that if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

Plaint in suits against members.

LXVII. In any suit brought by the Company against any member to recover any call or other monies due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Alteration of Forms.

Governor-General in Council may alter forms in Schedule.

LXVIII. The forms set forth in the second Schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer. The Governor-General of India in Council may from time to time make such alterations in the Tables and forms contained in first Schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said Schedule mentioned, and in the forms in the second Schedule, or make such additions to the last mentioned forms, as he deems requisite. Any such Table or forms, when altered, shall be published in the Gazette of India, and upon such publication being made, such Table or form shall have the same force as if it were included in the Schedule to this Act, but no alteration made by the Governor-General of India in Council in the Table marked A contained in the first Schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such Table.

Arbitrations.

Power for Companies to refer matters to arbitration.

LXIX. Any Company under this Act may from time to time, by writing under its common seal, agree to refer to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the Directors or other managing body of such Companies.

Power to alter or revoke agreements for reference.

LXX. The Companies jointly, but not otherwise, from time to time, by writing under there respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions or stipulations thereof.

Agreements to be carried into effect.

LXXI. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

Reference to Arbitrator.

LXXII. Where the Companies agree, the reference shall be made to a single Arbitrator.

Reference to two or more Arbitrators.

LXXIII. Except where the Companies agree that the reference shall be made to a single Arbitrator, the reference shall be made as follows; to wit—

Where there are two Companies, the reference shall be made to two arbitrators:

Where there are three or more Companies, the reference shall be made to so many arbitrators as there are Companies.

Appointment of Arbitrators by Companies.

LXIV. Where there are to be two or more Arbitrators, every Company shall by writing under there common seal appoint one of the Arbitrators, and shall give notice in writing thereof to the other Company or Companies.

Appointment of Arbitrators by Local Government.

LXXV. Where there are to be two or more Arbitrators, if any of the Companies fail to appoint an Arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an Arbitrator, may appoint an Arbitrator. The Arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of Arbitrators by Companies to supply vacancies.

LXXVI. When the reference is made to two or more Arbitrators, if before the matters referred to them are determined any Arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an Arbitrator in his place.

Appointment of Arbitrators by Local Government to supply vacancies.

LXXVII. Where the Company by which an Arbitrator ought to be appointed in the place of the Arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an Arbitrator. The Arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of Arbitrator not revocable.

LXXVIII. When any appointment of an Arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under the common seal.

Appointment of Umpire by Arbitrators.

LXXIX. Where two or more Arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their Umpire.

LXXX. If the Arbitrators do not appoint an Umpire within seven days after the reference is made to the Arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an Umpire, and the Umpire so appointed shall for the purposes of this Act be deemed to be appointed by the Arbitrators.

Appointment of Umpire by Local Government.

LXXXI. When two or more Arbitrators are appointed, if before the matters referred to them are determined their Umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Umpire, the Arbitrators shall by writing under their hands appoint an impartial and qualified person to be their Umpire in his place.

Appointment of Umpire by Arbitrators to supply vacancy.

LXXXII. If the Arbitrators fail to appoint an Umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their Umpire, then, on the application of the Companies or any of them, the Local Government may appoint an Umpire. The Umpire so appointed shall for the purposes of this Act be deemed to be appointed by the Arbitrators so failing.

Appointment of Umpire by Local Government to supply vacancy.

LXXXIII. Every Arbitrator appointed in the place of a preceding Arbitrator, and every Umpire appointed in the place of a preceding Umpire, shall respectively have the like powers and authorities as his respective predecessor.

Succeeding Arbitrators and Umpires to have powers of predecessors.

LXXXIV. Where there are two or more Arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the Arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their Umpire.

Reference to Umpire.

LXXXV. The Arbitrator, and the Arbitrators, and the Umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the Arbitrator, or the Arbitrators, or the Umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath or affirmation, and may administer the requisite oath or affirmation.

Power for Arbitrators, &c., to call for books, &c., and administer oath.

LXXXVI. Except where and as the Companies otherwise agree, the Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Procedure in the arbitration.

LXXXVII. The Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the Arbitrator, or the Arbitrators, or the Umpire shall think fit so to proceed.

Arbitration may proceed in absence of Companies.

LXXXVIII. The Arbitrator, and the Arbitrators, and the Umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred. Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the Arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

Several awards may be made.

LXXXIX. The award of the Arbitrator, or of the Arbitrators, or of the Umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next after the matters in difference are referred to (as the case may be) the Arbitrator, or the Arbitrators, or the Umpire, shall be binding and conclusive on all the Companies.

Awards made in due time to bind all parties.

XC. Provided always that (except where and as Companies otherwise agree) the Umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be valid and effectual as if made within the prescribed period.

Power for Umpire to extend period for making his award.

XCI. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

Awards not to be set aside for informality.

XCII. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered, shall be done, omitted, or suffered accordingly.

Awards to be obeyed.

XCIII. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act: and the perform-

Agreements, arbitrations and awards to have effect.

ance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

Costs of arbitration and award.

XCIV. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the Arbitrator, and the Arbitrators, and the Umpire respectively.

Payment of costs.

XCV. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

Submission to arbitration to be filed in Court.

XCVI. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

Meaning of Contributory.

XCVII. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determing the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

Nature of liability of contributory.

XCVIII. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful in the case of the insolvency of any contributory to prove against his estate the estimated value of his liability to future calls, as well as calls ready made.

Contributories in case of death.

XCIX. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devises shall be liable in a due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory, and such personal representatives, heirs and devises shall be deemed to be contributories accordingly.

Contributories in case of insolvency.

C. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Winding-up by Court.

Circumstances under which Company may be wound up by Court.

CI. A Company under this Act may be wound up by the Court as hereinafter defined, under the following circumstances; (that is to say)—

(1.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up by the Court:

(2.) Whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year:

(3.) Whenever the members are reduced in number to less than seven:

(4.) Whenever the Company is unable to pay its debts:

(5.) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up.

Company when deemed unable to pay its debts.

CII. A Company under this Act shall be deemed to be unable to pay its debts—

(1.) Whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered Office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor:

(2.) Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor, in any proceeding instituted by such creditor against the Company, is returned unsatisfied in whole or in part.

(3.) Whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

Definition of "the Court."

CIII. The expression "the Court" as used in this Part of this Act, shall mean the principal Court having original jurisdiction in the place in which the registered Office of the Company is situate; unless in the regulations for the management of the Company it shall be stipulated that the Company if wound up shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Punjab, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original Civil jurisdiction.

Application for winding-up to be made by petition.

CIV. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories of the Company, or by all or any of the above parties, together or separately. Every order which may be made on any such petition shall operate in favour of all the creditors and all the contributories of the Company, in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

Commencement of winding-up by Court.

CV. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Court may grant injunction.

CVI. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit. The Court may also at any time after the presentation of such petition and before the first appointment of Liquidators, appoint provisionally an Official Liquidator of the estate and effects of the Company.

Course to be pursued by Court on hearing petition.

CVII. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

Suits to be stayed after order for winding-up.

CVIII. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Copy of order to be forwarded to Registrar.

CIX. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company, to the Registrar of Joint Stock Companies; who shall make a Minute thereof in his books relating to the Company.

Power of Court to stay proceedings.

CX. The Court may at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Effect of order of share-capital of Company limited by guarantee.

CXI. When an order has been made for winding-up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

Courts may have regard to wishes of creditors or contributories.

CXII. The Court may as to all matters relating to the winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may if it thinks it expedient, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard is to be had to the value of the debts due to each creditor, and in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Official Liquidators.

Appointment of official Liquidator.

CXIII. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there may be appointed a person or persons to be called an Official Liquidator or Official Liquidators. The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of Official Liquidator or Official Liquidators. In all cases, if more persons

than one are appointed to the office of Official Liquidator, the Court shall declare whether any act hereby required or authorized to be done by the Official Liquidator is to be done by all or any one or more of such persons. The Court may also determine whether any and what security is to be given by any Official Liquidator on his appointment. If no Official Liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

Resignations, removals, filling up vacancies, and, compensation.

CXIV. Any Official Liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an Official Liquidator appointed by the Court shall be filled by the Court. There shall be paid to the Official Liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and if more Liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

Style and duties of Official Liquidator.

CXV. The Official Liquidator or Liquidators shall be described by the style of the Official Liquidator or Official Liquidators of the particular Company in respect of which he is or they are appointed, and not by his or their individual name or names. He or they shall take into his or their custody, or under his or their control, all the property, effects and things in action to which the Company is or appears to be entitled, and shall perform such duties in reference to winding-up of the Company as may be imposed by the Court.

Powers of Official Liquidator.

CXVI. The Official Liquidator shall have power, with the sanction of the Court, to do the following things :—

(1.) To bring or defend any suit or prosecution, or other legal proceeding Civil or Criminal, in the name and on behalf of the Company:

(2.) To carry on the business of the Company, so far as may be necessary for the beneficial winding-up of the same:

(3.) To sell the immoveable and moveable property, effects and things in action of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels.

(4.) To do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts and other documents, and for the purpose to use, when necessary, the Company's seal.

(5.) To prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateable with the other separate creditors:

(6.) To draw, accept, make and endorse any Bill of Exchange, Hundi or Promissory Note in the name and on behalf of the Company, also to raise upon the security of the assets of the Company from time to time any requisite sum or sums of money; and the drawing, accepting, making or endorsing of every such Bill of Exchange, Hundi or Promissory Note as aforesaid on behalf of the Company, shall have the same effect with respect to the liability of such Company as if such Bill or Note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof:

(7.) To take out, if necessary, in his official name, letters or administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and in all cases where he takes out letters of administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies, shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the Official Liquidator himself: Provided that nothing herein contained shall be deemed to effect the rights, duties and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively:

(8.) To do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

Discretion of Official Liquidator.

CXVII. The Court may provide by any order that the Official Liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an Official Liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Appointment of Attorney or Vakeel to Official Liquidator.

CXVIII. The Official Liquidator may, with the sanction of the Court, appoint an Attorney or Vakeel to assist him in the performance of his duties.

Ordinary Powers of Court.

Collection and application of assets.

CXIX. As soon as may be after making an order for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the

Register of Members in all cases where such rectification is required in pursuance of this Act, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities.

Provision as to representative contributories.

CXX. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of or being liable to the debts of others.

Power of Court to require delivery of property.

CXXI. The Court may, at any time after making an order for winding-up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker or agent, or Officer of the Company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the Official Liquidator any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being, and to which the Company is *primâ facie* entitled.

Power of Court to order payment of debts by contributory.

CXXII. The Court may, at any time after making an order for winding-up the Company, make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this Part of this Act. The Court may, in making such order, when the Company is not limited, allow to such contributory by way of set-off any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits. Provided that when all the creditors of any Company, whether Limited or Unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

Power of Court to make calls.

CXXIII. The Court may, at any time after making an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves. The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

Power of Court to order payment into Bank.

CXXIV. The Court may order any contributory, purchaser or other person from whom money is due to the Company, to pay the same into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the Official Liquidator instead of to the Official Liquidator, and such order may be enforced in the same manner as if it had directed payment to the Official Liquidator.

Regulation of account with Court.

CXXV. All monies, bills, notes and other securities, paid and delivered into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same, as the Court may direct.

Provision in case of representative contributory not paying monies ordered.

CXXVI. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory whether moveable or immoveable, or both, and of compelling payment thereout of the monies due.

Order conclusive evidence.

CXXVII. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due, and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

Court may exclude creditors not proving within certain time.

CXXVIII. The Court may fix a certain day or certain days on or within which creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

Court to adjust rights of contributories.

CXXIX. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

Court to order costs.

CXXX. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges and expenses incurred in winding-up any Company in such order of priority as the Court thinks just.

Dissolution of Company.

CXXXI. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order, and the Company shall be dissolved accordingly.

Registrar to make Minute of dissolution of Company.

CXXXII. Any order so made shall be reported by the Official Liquidator to the Registrar, who shall make a Minute accordingly in his Books of the dissolution of such Company.

Penalty on not reporting dissolution of Company.

CXXXIII. If the Official Liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default.

Extraordinary Powers of Court.

Power of Court to summon persons before it suspected of having property of Company.

CXXXIV. The Court may, after it has made an order for winding-up the Company, summon before it any Officer of the Company or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company. The Court may require any such Officer or person to produce any documents in his custody or power relating to the Company. If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

Examination of parties by Court.

CXXXV. The Court may examine upon oath or affirmation, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid, concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Power to arrest contributory about to abscond or to remove or conceal any of his property.

CXXXVI. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Powers of Court cumulative.

CXXXVII. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate, and such proceedings may be instituted accordingly.

Enforcement of and Appeal from Orders.

Power to enforce orders.

CXXXVIII. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Order made in any Court to be enforced by other Courts.

CXXXIX. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered Office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

Mode of dealing with orders to be enforced by other Courts.

CXL. Where any order or decree made by one Court is required to be enforced by another Court as hereinbefore provided, a certified copy of the order or decree so made shall be produced to the proper Officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made, and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

CXLI. Re-hearings of and appeals from any order or decision made or given in the matter of the winding-up of a Company by the Court, may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of Appeal.

Appeals from orders

CXLII. In all proceedings under this Part of this Act, every Court, Judge and person judicially acting, and all other Officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any Officer of any other Court, and also of the official seal of any other Court when such seal is appended to any document made, issued, or signed under the provisions of this Part of the Act, or any official copy thereof.

Judicial notice to be taken of signature of Officers.

CXLIII. The Judges of the District Courts who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any Company is wound up in a High Court, and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company. Every such Commissioner shall, in addition to any power of summoning and examining witnesses, and requiring the production or delivery of documents and certifying or punishing defaults by witness, which he might lawfully exercise as a Judge of a district Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses and requiring the production or delivery of documents and punishing defaults by witnesses, and allowing costs and charges, and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

Special Commissioners for receiving evidence.

CXLIV. If any affidavit, affirmation or declaration required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any Colony, Island, Plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions ,all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Part of this Act.

Affidavits &c., may be sworn in British India, Great Britain or Ireland, or abroad, before any competent Court or person.

Voluntary Winding-up of Company.

CXLV. A Company under this Act may be wound up voluntarily,

Circumstances under which Company may be wound up voluntarily.

(1.) Whenever the period, if any, fixed for the duration of the Company by the Articles of Association expires, or whenever the event, if any occurs upon the occurrence of which it is provided by the Articles of Association that the Company is to be dissolved, and the Company in General Meeting has passed a Resolution requiring the Company to be wound up voluntarily:

(2) Whenever the Company has passed a Special Resolution requiring the Company to be wound up voluntarily:

(3.) Whenever the Company has passed an Extraordinary Resolution to the effect that it has been proved to their satisfaction that the Company cannot by reason of its liabilities continue its business, and that it is advisable to wind up the same.

For the purpose of this Act any Resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a special Resolution as hereinbefore defined.

CXLVI. A voluntary winding-up shall be deemed to commence at the time of the passing of the Resolution authorizing such winding-up.

Commencement of voluntary winding-up.

CXLVII. Whenever a Company is wound up voluntarily, the Company, shall, from the date of the commencement of such winding-up, cease to carry on its business except in far as may be required for the beneficial winding-up thereof; and all transfers of shares except transfers made to or with the sanction of the Liquidators, or alteration in the status of the members of the Company taking

Effect of voluntary winding-up on status of Company.

place after the commencement of such winding-up, shall be void, but its corporate state and all its corporate powers shall, notwithstanding it is otherwise provided by its regulations, continue until the affairs of the Company are wound up.

Notice of resolution to wind up voluntarily.

CXLVIII. Notice of any Special Resolution or Extraordinary Resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local Official Gazette and also in some newspaper (if any) circulating in the place where the registered Office of the Company is situate.

Consequence of voluntary winding-up.

CXLIX. The following consequences shall ensue upon the voluntary winding-up of a Company :—

(1.) The property of the Company shall be applied in satisfaction of its liabilities *pari passu*, and subject thereto shall, unless it be otherwise provided by the regulations of the Company, be distributed amongst the members according to their rights and interests in the Company.

(2.) Liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the property:

(3.) The Company in General Meeting shall appoint such persons or person as its thinks fit to be Liquidators or a Liquidator, and may fix the remuneration to be paid to them or him :

(4.) If one person only is appointed, all the provisions herein contained in reference to several Liquidators shall apply to him :

(5.) Upon the appointment of Liquidators, all the powers of the Directors shall cease, except in so far as the Company in General Meeting or the Liquidators may sanction the continuance of such powers :

(6.) When several Liquidators are appointed, power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two :

(7.) The Liquidators may, without the sanction of the Court, exercise all powers by this Act given to the Official Liquidators:

(8.) The Liquidators may exercise the powers herein before given to the Court of settling the list of contributories of the Company, and any list so settled shall be *primâ facie* evidence of the liability of the persons named therein to be contributories :

(9.) The Liquidators may at any time after the passing of the Resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of contributories amongst themselves, and the Liquidators, may in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same :

(10.) The Liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

Effect of winding-up on share-capital of Company limited by guarantee.

CL. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Liquidators.

Power of Company to declare authority to appoint Liquidators.

CLI. A Company about to be wound up voluntarily or in the course of being wound up voluntarily may, by an Extraordinary Resolution, delegate to its creditors or to any Committee of its creditors, the power of appointing Liquidators or any of them, and supplying any vacancies in the appointment of Liquidators, or may by a like Resolution enter into any arrangement with respect to the powers to be exercised by the Liquidators and the manner in which they are to be exercised. Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

Arrangement when binding on creditors.

CLII. Any arrangement which a Company about to be wound up voluntarily or in the course of being wound up voluntarily shall have entered into with its creditors, shall be binding on the Company if sanctioned by an Extraordinary Resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is hereinafter mentioned.

Power of creditors or contributory to appeal.

CLIII. Any creditor or contributory of a Company that has in manner aforesaid entered into any agreement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

CLIV. Where a Company is being wound up voluntarily, the Liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise as respects the enforcing of calls or in respect of any other matter, all or any of the powers which the Court might exercise if the Company were being wound up by the Court. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

Power for liquidators or contributories in voluntary winding up to apply to Court.

CLV. Where a Company is being wound up voluntarily, the Liquidators may, from time to time during the continuance of such winding-up, summon General Meetings of the Company for the purpose of obtaining the sanction of the Company by Special Resolution or Extraordinary Resolution, or for any other purposes they think fit. In the event of the winding-up continuing for more than one year, the Liquidators shall summon a General Meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings and the manner in which the winding-up has been conducted during the preceding year.

Power of Liquidators to call General Meeting.

CLVI. If any vacancy occurs in the office of Liquidators appointed by the Company, by death, resignation or otherwise, the Company in General Meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy, and a General Meeting for the purpose of filling up such vacancy may be convened by the continuing Liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing Liquidator, if any, or by any contributory of the Company, be determined by the Court.

Power to fill up vacancy in office of Liquidators.

CLVII. If from any cause whatever there is no Liquidator acting in the case of a voluntary winding-up the Court may, on the application of a contributory, appoint a Liquidator or Liquidators. The Court may also, on due cause shown, remove any Liquidator, and appoint another Liquidator to act in the matter of a voluntary winding-up.

Power of Court to appoint Liquidators.

CLVIII. As soon as the affairs of the Company are fully wound up, the Liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of; and thereupon they shall call a General Meeting of the Company for the purpose of having the account laid defore them, and hearing any explanation that may be given by the Liquidators. The meeting shall be called by advertisement, specifying the time, place and object of such meeting. and such advertisement shall be published one month at least previously to the meeting in the manner specified in Section 148.

Liquidators on conclusion of winding-up to make up an account.

CLIX. The Liquidators shall make a return to the Registrar of such meeting having been held and of the date at which the same was held, and on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved. If the Liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

Liquidators to report meeting to registrar.

CLX. All costs, charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the Liquidators, shall be payable out of the assets of the Company in priority to all other claims.

Costs of voluntary liquidation.

CLXI. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

Saving of rights of creditors.

CLXII. Where a Company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Power of Court to adopt proceedings of voluntary winding-up.

Winding-up subject to the Supervision of the Court.

CLXIII. When a Resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up should continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

Power of Court, on application, to direct winding-up subject to supervision.

Petition for winding-up subject to supervision.

CLXIV. A petition praying wholly or in part that a voluntary winding-up should continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

Court may have regard to wishes of creditors.

CLXV. The Court may, in determining whether a Company is to be wound up altogether by the Court or subject to the supervision of the Court, in the appointment of a Liquidator or of Liquidators. and in all other matters relating the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard shall be had to the value of the debts due to each creditor, and in the case of contributories to the number of votes conferred on each contributory by the regulations of the Company.

Power to Court to appoint additional Liquidators in winding-up subject to supervision.

CLXVI. Where any order is made by the Court for a winding-up subject to the supervision of the Court the Court may, in such order or in any subsequent order, appoint any additional Liquidator or Liquidators. Any Liquidators so appointed by the Court shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if they had been appointed by the Company. The Court may from time to time remove any Liquidators so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

Effect of order of Court for winding-up subject to supervision.

CLXVII. Where an order is made for a winding-up subject to the supervision of the Court, the Liquidators appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all their powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily. Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court, shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the Liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court. In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the Official Liquidators, the expression Official Liquidators shall be deemed to mean the Liquidators conducting the winding-up subject to the supervision of the Court.

Appointment in certain cases of voluntary Liquidators to office of Official Liquidators.

CLXVIII. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary Liquidators or any of them, either provisionally or permanently, and either with or without the additon of any other persons to be Official Liquidators.

Supplemental Provisions.

Dispositions after the commencement of the winding-up avoided.

CLXIX. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property, effects and things in action of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding up and the order for winding-up, shall, unless the Court otherwise orders, be void.

The Books of the Company to be evidence.

CLXX. Where any Company is being wound up, all books, accounts and documents of the Company and of the Liquidators shall, as between the contributories of the Company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded.

As to disposal of books, accounts and documents of the Company.

CLXXI. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the Liquidators may be disposed of in the following way ; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and where the Company has been wound up voluntarily, in such way as the Company by an Extraordinary Resolution directs. But after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the Liquidators or any one to whom the custody of such books, accounts and documents has been committed by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

CLXXII. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

Inspection of books.

CLXXIII. The Liquidators may, with the sanction of the Court, where the Company is being wound up by the Court or subject to the supervision of the Court. and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the Liquidators may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

General scheme of liquidation may be sanctioned.

CLXXIV. The Liquidators may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist, between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the Liquidators to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

Power to compromise.

CLXXV. Where any Company is proposed to be or is in the course of being wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the Liquidators of the first mentioned Company may, with the sanction of a Special Resolution of the Company by whom they were appointed, conferring either a general authority on the Liquidators, or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing Company; and any sale made or arrangement entered into by the Liquidators in pursuance of this Section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favour of the Special Resolution passed by the Company of which he is a member at either of the meetings held for passing the same. expresses his dissent from any such Special Resolution in writing addressed to the Liquidators or one of them, and left at the registered Office of the Company not later than seven days after the date of the meeting at which such Special Resolution was passed, such dissentient member may require the Liquidators to do one of the following things as the Liquidators may prefer; that is to say, either to abstain from carrying such Resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned, such purchase money to be paid before the Company is dissolved, and to be raised by the Liquidators in such manner as may be determined by Special Resolution. No Special Resolution shall be deemed invalid for the purposes of this Section by reason that it is passed antecedently to or concurrently with any Resolution for winding-up the Company, or for appointed Liquidators; but if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such resolution shall not be of any validity unless it is sanctioned by the Court.

Power for Liquidators to accept shares, &c., as a consideration for sale of property of Company.

CLXXVI. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

Mode of determining price.

CLXXVII. When any dispute so directed to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single Arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an Arbitrator to whom such dispute shall be referred. After any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either

Appointment of Arbitrator when questions are to be determined by arbitration.

party operate as such revocation. If for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an Arbitrator, such last mentioned party fail to appoint such Arbitrator, then upon such failure the party making the request, and having himself appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both parties, and such Arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single Arbitrator shall be final.

Vacancy of Arbitrator to be supplied.

CLXXVIII. If, before the matters so referred shall be determined, any Arbitrator appointed by either party die, or become incapable, or refuse or for seven days neglect to act as Arbitrator, the party by whom such Arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other Arbitrator may proceed *ex parte*; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former Arbitrator at the time of such his death refusal or disability as aforesaid.

Appointment of Umpire.

CLXXIX. Where more than one Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an Umpire to decide on any such matters on which they shall differ. If such Umpire shall die, or refuse or for seven days neglect to act, they shall forthwith, after such death, refusal or neglect, appoint another Umpire in his place; and the decision of every such Umpire on the matter so referred to him shall be final.

Power of Arbitrators to call for books, &c.

CLXXX. The said Arbitrators or their Umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Costs to be in the discretion of the Arbitrators.

CLXXXI. The costs of and attending every such arbitration to be determined by the Arbitrators shall be in the discretion of the Arbitrators or their Umpires, as the case may be.

Submission to arbitration may be filed in Court.

CLXXXII. On the application of either of the parties the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

Certain attachments, distresses and executions to be void.

CLXXXIII. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put in force against the estate or effects of the Company after the commencement of the winding-up shall be void.

Fraudulent preference.

CLXXXIV. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property, which would, if made or done by or against any individual trader, be deemed in the event of his insolvency to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly. For the purposes of this Section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a Resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees for the benefit of all its creditors, shall be void.

Power of Court to assess damages against delinquent Directors and Officers.

CLXXXV. Where in the course of the winding-up of any Company under this Act, it appears that any past or present Director, Manager, Official or other Liquidator, or any Officer of such company, has misapplied or retained in his own hands or become liable or accountable for any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any Liquidator, or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such Director, Manager, or other Officer, and compel him to repay any monies so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust, as the Court thinks just.

CLXXXVI. If any Director, Officer or contributory of any Company wound up under this Act, destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes or is privy to the making of any false or fraudulent entry in any Register, book of account or other document belonging to the Company with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment of either description as defined in the Indian Penal Code, for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

Penalty on falsification of books.

CLXXXVII. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present Director, Manager, Officer or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the Official Liquidators, or the Liquidators (as the case may be), to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

Prosecution of delinquent Directors in the case of winding-up by Court.

CLXXXVIII. If any person, upon any examination upon oath or affirmation authorized under this Act, or in any affidavit, deposition or solemn affirmation in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall, upon conviction, be liable to imprisonment of either decription as defined in the Indian Penal Code for a term which may extend to seven years and shall also be liable to fine.

Penalty of false evidence.

Power of High Court to make Rules.

CLXXXIX. The High Court may make such rules concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, as may from time to time seem necessary and as may be consistent with the other provisions of this Act and with the Code of Civil Procedure. But until such rules are made, the general practice of the Court including the practice hitherto in use in winding-up Companies shall so far as the same is applicable and not inconsistent with this Act, apply to all proceedings for winding-up a Company.

Power of High Court to make rules.

PART V.

REGISTRATION OFFICE.

CXC. The registration of Companies under this Act shall be conducted as follows, (that is to say)—

Constitution of Registration Office.

(1.) The Local Government may, after the sanction of the Governor-General of India in Council to the creation of any such Offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, Clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure :

(2.) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, Clerks and servants as aforesaid :

(3.) The Local Government may from time to time determine the places at which Offices for the registration of Companies are to be established, so that there be at all times maintained in each of the three Presidency Towns of Calcutta, Madras and Bombay at least one such Office, and that no Company shall be registered except at an Office within that part of British India in which by the memorandum of association the registered Office of the Company is declared to be established :

(4.) The Local Government may from time to time direct a seal or seals to to be prepared for the authentication of any documents required for or connected with the registration of Companies.

(5.) Every person may inspect the documents kept by the Registrar of Joint Stock Companies. There shall be paid for such inspection such fees as may be appointed by the Local Government not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may appoint, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract :

(6.) The existing Registrar, Assistant Registrars, Clerks and other Officers and servants in the Office for the registration of Joint Stock Companies shall during

the pleasure of the Local Government hold the Offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government :

(7.) There shall be paid to any Registrar, Assistant Registrar, Clerk or servant that may hereafter be employed in the registration of Joint Stock Companies, such salary as the Local Government may, with the sanction of the Governor-General of India in Council, direct :

(8.) Whenever any act is herein directed to be done to or by the Registrar of Joint Stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of Joint Stock Companies, or, in his absence, to or by such person as the Local Government may for the time being authorize. But in the event of the Local Government altering the constitution of the existing Registery Office, such act shall be done to or by such Officer or Officers and at such place or places with reference to the local situation of the registered Officers of the Companies to be registered as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES' ACTS.

Application of Act to Companies formed under Act XIX of 1857 or VII of 1860.

CXCI. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first Schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860 or either of them, in the same manner in the case of a Limited Company as if such Company had been formed and registered under this Act as a Company limited by shares ; and in the case of a Company other than a limited Company, as if such Company had been formed and registered as an Unlimited Company under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by Special Resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the Table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an Unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding such regulations are contained in the memorandum of association.

Application of Act to Companies registered under Act XIX of 1857 or VII of 1860.

CXCII. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

Mode of transfering shares.

CXCIII. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

Companies capable of being registered.

CXCIV. With the exceptions made in the next following Section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament, or Act of the Governor-General of India in Council other than this Act, or of Letters Patent or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an Unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Regulations as to registration of existing Companies.

CXCV. The following regulations shall be observed with respect to the registration of Companies under this Part of this Act: (that is to say)—

(1.) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, and not being a Joint Stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof:

(2.) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an Unlimited Company. or as a Company limited by guarantee:

(3.) No Life Assurance Company existing at the time of the commencement of this Act, and no Company that is not a Joint Stock Company as hereinafter defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares:

(4.) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present, personally or by proxy in cases where proxies are allowed by the regulations of the Company, at some General Meeting summoned for the purpose;

(5.) Where a Company not having the liability of its members limited by Act of Parliament or Act of the Aovernor-General of India in Council, or by Letters Patent, is about to register as a Limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned General Meeting:

(6.) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a Resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributaries amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this Section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

Definition of Joint Stock Company.

CXCVI. For the purposes of this Part of this Act so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a Joint Stock Company shall be deemed be a Company having a permanent paid-up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons, and such Company when registered with limited liability under this Act shall be deemed to be a Company limited by shares.

Requisitions for registration by Companies.

CXCVII. Previously to the registration, in pursuance of this Part of this Act of any Joint Stock Company, there shall be delivered to the Registrar the following documents: (that is to say),

(1.) A list showing the names, addresses and occupations of all persons who on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares, held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number:

(2.) A copy of any Act of Parliament or Act of the Governor-General of India in Council, Royal Charter, Letters Patent, Deed of Settlement, Contract of Copartnery or other instrument constituting or regulating the Company:

(3.) If any such Joint Stock Company is intended to be registered as a Limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars; (that is to say)—

The nominal capital of the Company and the number of shares into which it is divided:

The number of shares taken and the amount paid on each share:

The name of the Company, with the addition of the word "Limited" as the last word thereof:

With the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of the guarantee.

Requisitions for registration by existing Company not being a Joint Stock Company.

CXCVIII. Previously to the registration in pursuance of this Part of this Act of any Company not being a Joint Stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the Directors or other Managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor-General of India in Council, Letters Patent, Deed of Settlement, Contract of Copartnery or other instrument constituting or regulating the Company, with the addition, in the case of any Company intended

to be registered as a Company limited by guarantee, of the Resolution declaring the amount of guarantee.

Power for existing Company to register amount of stock instead of shares.

CXCIX. Where a Joint Stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement not more than six clear days before the day of registration.

Authentication of statements of existing Companies.

CC. The lists of members and Directors and any other particulars relating to the Company hereby required to be delivered to the Registrar, shall be verified by declaration of the Directors of the Company delivering the same or any two of them, or of any two other principal Officers of the Company made before a Justice of the Peace or a District Judge.

Registrar may require evidence as to nature of Company.

CCI. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a Joint Stock Company as hereinbefore defined.

On registration of Banking Company with limited liability, notice to be given to customers.

CCII. Every banking Company existing at the date of the passing of this Act which registers itself as a Limited Company shall at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and partnership firm having a banking account with the Company. Such notice shall be given either by delivering the same to such person or firm, or leaving the same or putting the same into the Post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company. In case the Company omits to give any such notice as is hereinbefore required to be given then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given but not further or otherwise, the certificates of registration with limited liability shall have no operation.

Exemption of certain Companies from payment of fees.

CCIII. No fees shall be charged in respect of the registration in pursuance of this part of this Act of any Company in cases where such Company is not registered as a Limited Company, or where previously to its being registered as a Limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor-General of India in Council, or by Letters Patent.

Company to change name.

CCIV. Any Company authorized by this Part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "Limited."

Certificate of registration of existing Companies.

CCV. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the Tables marked B and C in the first Schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a Limited Company, that it is limited, and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

Certificate to be evidence of compliance with Act

CCVI. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a Limited or Unlimited Company, as the case may be, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

Transfer of property to Company.

CCVII. All such property, moveable and immoveable, including all interests and rights in, to, and out of property, moveable and immoveable, and including obligations and things in action as may belong to or be vested in the Company at the date of its registration under this Act, shall on registration pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

Registration under this Act not to affect obligations incurred previously to registration.

CCVIII. The Registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of such Company previously to such registration.

Continuation of existing suits.

CCIX. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public Officer or any

member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid ; but in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

Effect of registration under Act.

CCX. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Copartnery, Letters Patent or other instrument constituting or regulating the Company, including, in the case of Company registered as a Company limited by guarantee, the Resolution declaring the amount of the guarantee, shall be deemed to be conditions and Regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and Articles of Association ; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following ; (that is to say),

(1.) That Table A in the first Schedule to this Act shall not, unless adopted by Special Resolution, apply to any Company registered under this Act in pursuance of this Part thereof :

(2.) That the provisions of this Act relating to the numbering of shares shall not apply to any Joint Company whose shares are not numbered :

(3.) That no Company shall have power to alter any provision contained in any Act of Parliament, Act of the Legislative Council or Act of the Governor-General of India in Council relating to the Company :

(4.) That no Company shall have power, without the sanction of the Governor-General of India in Council, to alter any provision contained in any Letters Patent relating to the Company :

(5.) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability ; or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, or marriage of any such contributory being a female, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, and to the husbands of married contributories, shall apply:

(6.) Nothing herein contained shall authorize any Company to alter any such provisions contained in any Deed of Settlement, Contract of Copartnery, Letters Patent or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act :

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this part thereof by virtue of any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Copartnery, Letters Patent or other instrument constituting or regulating the Company.

Powers of Court to restrain further proceedings.

CCXI. The Court may, at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Order for winding-up Company.

CCXII. Where an order has been made for winding-up a Company registered in pursuance of this Part of the Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

Winding-up of Unregistered Companies.

CCXIII. Subject as hereinafter mentioned any partnership, association or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor-General of India in Council, consisting of more than seven members and not registered under this Act, and hereinafter included under the term Unregistered Company, may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions:—

(1.) An Unregistered Company, shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate; or if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an Unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered Office of the Company:

(2.) No Unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court:

(3.) The circumstances under which an Unregistered Company may be wound up are as follows; (that is to say):—

(*a.*) Whenever the Company is dissolved or has ceased to carry on business or is carrying on business only for the purpose of winding-up its affairs;

(*b.*) Whenever the Company is unable to pay its debts;

(*c.*) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up:

(4.) An Unregistered Company shall for the purposes of this Act, be deemed to be unable to pay its debts,

(*a.*) Whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the Secretary or some Director or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor:

(*b.*) Whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and, notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the Secretary, or some Director, Manager or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not within ten days after service of such notice paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same:

(*c.*) Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied:

(*d.*) Whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

Who to be deemed a contributory in the event of Company being wound up.

CCXIV. In the event of an Unregistered Company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company. Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due

from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

Power of Court to restrain further proceedings.

CCXV. The Court may, at any time after the making of an application for winding-up an Unregistered Company, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Effect of order for winding-up Company.

CCXVI. Where an order has been made for winding-up an Unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Provision in case of Unregistered Company.

CCXVII. If any Unregistered Company has no power to sue and be sued in a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims and rights into and out of property moveable and immoveable, and including things in action as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company or any part of such property, is to vest in the Official Liquidator or Official Liquidators by his or their official name or names, and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the Official Liquidator or Official Liquidators may, in his or their official name or names, or in such name or names and after giving such indemnity as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of the effectually winding-up the Company and recovering the property thereof.

Provisions of this Part of Act cumulative.

CCXVIII. The provisions made by this Part of the Act with respect to Unregistered Companies shall be deemed to be made in addition to and not in restriction of any provisions hereinbefore contained with respect to winding-up Companies by the Court. The Court or Official Liquidator may, in addition to any thing contained in this Part of the Act, exercise any powers or do any act in the case of Unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act; but an Unregistered Company shall not, except in the event of its being wound up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act

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PART IX.

REPEAL OF ACTS AND MISCELLANEOUS PROVISIONS.

CCXIX. Repealed by Act. XIV. of 1870.
CCXX. ditto ditto.
CCXXI. ditto ditto.
CCXXII. ditto ditto.

Compulsory registration of certain Companies.

CCXXIII. Every Company required by any Act hereby repealed to register under the said Act or either of them, and which has not so registered shall, on or before the expiration of the thirty-first day from the commencement of this Act, register itself as a Company under this Act, in manner and subject to the regulations hereinbefore contained. No fees shall be charged in respect of the registration of any Company required to register by this Section.

Penalty on Company not registering.

CCXXIV. If any Company required by the last Section to register under this Act makes default in complying with the provisions thereof, then, from and after the day upon which such Company is required to register under this Act, until the day on which such Company is registered under this Act (which it is empowered to do at any time), the following consequences shall ensue, (that is to say)—

(1.) The Company shall be incapable of suing, but shall not be incapable of being made a defendant to a suit:

(2.) No dividend shall be payable to any shareholder in such Company:

(3.) Each Director or Manager of the Company shall, for each day during which the Company so being in default carries on business, incur a penalty not exceeding one hundred rupees, and such penalty may be recovered by any person, whether a shareholder or not in the Company, and be applied by him to his own use.

Nevertheless, such default shall not render the Company so being in default illegal, nor subject it to any penalty or disability other than as specified in this Section, and registration under this Act shall cancel any penalty or forfeiture, and put an end to any disability which any Company may have incurred by reason of its not having registered under the said Act No. XIX of 1856.

Cognizance of offences under this Act.

CCXXV. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences under this Act, committed within local limits of High Court.

CCXXVI. If any offence which by this Act is declared to be punishable by any penalty shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishble upon summary conviction by any Magistrate of Police of the place at which such Court is held

Levy of penalties by distress.

CCXXVII. All penalties imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the Officer imposing the penalty.

Procedure until return is made to distress warrant.

CCXXVIII. In case any such penalty shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if no sufficient distress.

CCXXIX. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand commit the offender to prison, for any term not exceeding two months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of penalty.

Construction of "Registrar of Joint Stock Companies" in Act No. XX of 1860.

CCXXX. In Sections 1 and 18 of Act No. XXI of 1860 *(for the registration of Literary, Scientific and Charitable Societies)*, the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of Joint Stock Companies under this Act or any Act for the time being in force.

Act not to apply to Banks of Bengal, Madras or Bombay.

CCXXXI. Save as provided in Section 125, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in General Meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in General Meeting may prescribe.

Calls on Shares.

(4.) The Directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Directors.

(5.) A call shall be deemed to have been made at the time when the Resolution of the Directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent, per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the monies due upon the shares held by him beyond the sums actually called for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the Directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the Register Book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, A B, of in consideration of the sum of rupees paid to me by C D of do hereby transfer to the said C D the share (or shares) numbered standing in my name in the books of the Company, to hold unto the said C D his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said C D, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands, the day of

(10) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11) The transfer books shall be closed during the fourteen days immediately preceding the Ordinary General Meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member. may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the Directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the Diretors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call, together with interest and any expenses that may have accrued by reason of such non-payment

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered Office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a Resolution of the Directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in General Meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was made by a Resolution of the Directors to that effect, shall be sufficient evidence of the facts therein stated, as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to a purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The Directors may, with the sanction of the Company previously given in General Meeting, convert any paid-up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein or any part of such interests, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes, as would have been conferred by shares of equal amount in the capital of the Company ; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The Directors may, with the sanction of a Special Resolution of the Company previously given in General Meeting, increase its capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in General Meeting directs, or, if no direction is given, as the Directors think expedient.

(27,) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined ; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the Directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first General Meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the Directors may determine.

(30.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting ; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year, at such place as may be determined by the Directors.

(31.) The above-mentioned General Meetings shall be called Ordinary Meetings ; all other General Meetings shall be called Extraordinary.

(32.) The Directors may, whenever they think fit, and they shall upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an Extraordinary General Meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(34.) Upon the receipt of such requisition the Directors shall forthwith proceed to convene an Extraordinary General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other members amounting to the required number, may themselves convene an Extraordinary General Meeting.

Proceedings at General Meetings.

(35.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(36.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the Directors.

(37.) No business shall be transacted at any General Meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows: that is to say, if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place; and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die.*

(39.) The Chairman (if any) of the Board of Directors shall preside as Chairman at every General Meeting of the Company.

(40.) If there is no such Chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be Chairman.

(41.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such Resolution.

(43.) If a poll is demanded by five or more members, it shall be taken in such manner as the Chairman directs, and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting. In the case of an equality of votes at any General Meeting the Chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his committee or other legal Curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the Register of Members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any General Meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at

least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or if such appointor is a Corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered Office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form:—

Company Limited.

I of

being a member of the Company Limited, and entitled to vote or votes, hereby appoint of as my proxy, to vote for me and on my behalf at the (Ordinary *or* Extraordinary, *(as the case may be)* General Meeting of the Company to be held on the day of , and at any adjournment thereof (*or*, at any meeting of the Company that may be held in the year). As witness my hand, this day of

Signed by the said in the presence of

Directors.

(52.) The number of the Directors, and the names of the first Directors shall be determined by the subscribers of the memorandum of association.

(53.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

(54.) The future remuneration of the Directors, and their rumuneration for services performed previously to the first General Meeting, shall be determined by the Company in General Meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the Directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these Articles, required to be exercised by the Company in General Meeting, subject nevertheless to any regulations of these Articles, to the provisions of the foregoing Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in General Meeting; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

(56.) The continuing Directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The office of Director shall be vacated—

If he holds any other office or place of profit under the Company;

If he becomes bankrupt or insolvent;

If he is concerned in or participates in the profits of any contract with the Company;

But the above rules shall be subject to the following exceptions: That no Director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is Director; nevertheless he shall not vote in respect of such contract or work; and if he does so vote his vote shall not be counted.

Rotation of Directors.

(58.) At the first Ordinary Meeting after the registration of the Company, the whole of the Directors shall retire from office; and at the first Ordinary Meeting in every subsequent year, one-third of the Directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59.) The one-third or other nearest number to retire during the first and second years ensuing the first Ordinary Meeting of the Company shall, unless the Directors agree among themselves, be determined by ballot. In every subsequent

year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring Director shall be re-eligible.

(61.) The Company at the General Meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If at any meeting at which an election of Directors ought to take place. the places of the vacating Directors are not filled up, the Meeting shall stand adjourned till the same day in the next week, at the same time and place ; and if at such adjourned meeting the places of the vacating Directors are not filled up, the vacating Directors, or such of them as have not had their places filled up, shall continue in office until the Ordinary Meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in General Meeting, increase or reduce the number of Directors, and may also determine in what rotation such increased or reduced number is to go out of Office.

(64.) Any casual vacancy occurring in the Board of Directors may be filled up by the Directors, but any person so chosen shall retain his office so long only as the vacating Director would have retained the same if no vacancy had occurred.

(65.) The Company in General Meeting may, by a Special Resolution, remove any Director before the expiration of his period of Office, and may by an Ordinary Resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman shall have a second or casting vote. A Director may at any time summon a meeting of the Directors.

(67.) The Directors may elect a Chairman of their meetings, and determine the period for which he is to hold office ; but if no such Chairman is elected, or if at any meeting the Chairman is not present at the time appointed for holding the same, the Directors present shall choose some one of their number to be Chairman of such meeting.

(68.) The Directors may delegate any of their powers to Committees consisting of such member or members of their body as they think fit. Any Committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.

(69.) A Committee may elect a Chairman of its meetings. If no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting.

(70.) A Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present ; and in case of an equality of votes the Chairman shall have a second or casting vote.

(71.) All acts done by any meeting of Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

Dividends.

(72.) The Directors may, with the sanction of the Company in General Meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof ; and the Directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The Directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned ; and all dividends unclaimed for three years after having been declared, may be forfeited by the Directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The Diretors shall cause true accounts to be kept,

Of the stock in trade of the Company ;

Of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place ; and

Of the credits and liabilities of the Company.

The books of account shall be kept at the registered Office of the Company, and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the Directors shall lay before the Company in General Meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting ; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in General Meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this Table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

(83.) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the Directors ; subsequent auditors shall be appointed by the Company in General Meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The auditors may be members of the Company ; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company ; and no Director or other Officer of the Company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the Company at their Ordinary Meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the Directors; that of subsequent auditors shall be fixed by the Company in General Meeting.

(89.) Any auditor shall be re-eligible on his quitting Office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the Company, the Directors shall forthwith call an Extraordinary General Meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92.) Every auditor shall be supplied with a copy of the balance-sheet and it shall be his duty to examine the same with the accounts aud vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the Directors or any other Officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accouts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations or information from the Directors, whether such explanation or information have or has been given by the Directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the Directors, at the Ordinary Meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the Post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by Post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the Post; and in proving such service it shall be sufficieut to prove that the letter containing the notice was properly addressed and put into the Post Office.

DR. *Balance-sheet (a) of the Company made up to 18* CR.

CAPITAL AND LIABILITIES.

			Rs.	As.
I. CAPITAL.		SHOWING:		
	1	The number of shares		
	2	The amount paid per share		
	3	If any arrears of calls, the nature of the arrear, and the names of the defaulters		
	4	The particulars of any forfeited shares		
II. DEBTS AND LIABILITIES OF THE COMPANY.		SHOWING:		
	5	The amount of loans on mortgages or debenture bonds		
	6	The amount of debts owing by the Company. Distinguishing—		
		(a) Debts for which acceptances have been given		
		(b) Debts to tradesmen for supplies of stock in trade or other articles		
		(c) Debts for law expenses		
		(d) Debts for interest on debentures or other loans		
		(e) Unclaimed dividends		
		(f) Debts not enumerated above		
VI. RESERVE FUND.		SHOWING:		
		The amount set aside from profits to meet contingencies		
VII. PROFIT AND LOSS.		SHOWING:		
		The disposable balance for payment of dividends, &c.		
CONTINGENT LIABILITIES.		Claims against the Company not acknowledged as debts		
		Monies for which the Company is contingently liable		

PROPERTY AND ASSETS.

			Rs.	As.
III. PROPERTY HELD BY THE COMPANY.		SHOWING:		
	7	Immoveable property. Distinguishing—		
		(a) Freehold land		
		(b) ,, Buildings		
		(c) Leasehold ,, ...		
	8	Moveable property Distinguishing—		
		(d) Stock in Trade		
		(e) Plaint		
		The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss		
IV. DEBTS OWING TO THE COMPANY.		SHOWING:		
	9	Debts considered good for which the Company hold bills or other securities		
	10	Debts considered good for which the Company hold no security		
	11	Debts considered doubtful and bad		
		Any Debt due from a Director or other Officer of the Company to be separately stated		
V. CASH AND INVESTMENTS.		SHOWING:		
	12	The nature of investment and rate of interest ...		
	13	The amount of cash, where lodged, and if bearing interest		

(a) See Clause 31 and 82 of the foregoing Table A.

TABLE B.

TABLE OF FEES to be paid to the Registrar of Joint Stock Companies by a Company having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose nominal capital does not exceed Rs. 20,000, a fee of	40	0	0
For registration of a Company whose nominal capital exceeds Rs. 20,000 the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital; (that is to say)—			
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 20,000 rupees up to 50,000 rupees	20	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 50,000 rupees up to 1,000,000 rupees	5	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 1,000,000 rupees	1	0	0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees or part of 10,000 rupees as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account in the case of fees payable on an increase of capital after registration the fees paid on registration.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged as for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

TABLE C.

TABLE OF FEES to be paid to the Registrar of Joint Stock Companies by a Company not having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose number of members, as stated in the Articles of Association, does not exceed 20	40	0	0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the Articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members or less number than 50 members after the first 100.			
For registration of a Company in which the number of members is stated in the Articles of Association to be unlimited, a fee of ...	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			
For registration of any existing Company except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The Capital of the Company is Rs. , divided into shares of each.

The number of shares issued is . Calls to the amount of Rs. per share have been made, under which the sum of Rs. has been received.

The liabilities of the Company on the first day of January (or July) were :—

Debts owing to sundry persons by the Company :

Under decree, Rs.
On specialty, Rs.
On Notes or Bills, Rs.
On Simple Contracts, Rs.
On estimated Liabilities, Rs.

The Assets of the Company on that day were :—

Government Securities [stating them], Rs.
Bills of Exchange and Promissory Notes, Rs.
Cash at the Bankers, Rs.
Other Securities, Rs.

SECOND SCHEDULE.

FORM A.

Memorandum of association of a Company limited by shares.

1st.—The name of the Company is "The Company, Limited."

2nd.—The registered Office of the Company will be situate in

3rd.—The objects for which the Company is established are, " and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—The liability of the members is limited.

5th.—The capital of the Company is Rs. divided into shares of Rs. each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names :—

Names, Addresses, and Descriptions of Subscribers.			Number of shares taken by each Subscriber.
1. A. B.	of	...	
2. C. D.	"	...	
3. E. F.	"	...	
4. G. H.	"	...	
5. I. J.	"	...	
6. K. L.	"	...	
7. M. N.	"	...	
	Total shares taken	...	

Dated the *day of*

Witness to the above signatures.

O. P. of

FORM B.

Memorandum and Articles of Association of a Company limited by guarantee, and not having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Mutual Calcutta Marine Association, Limited."

2nd.—The registered Office of the Company will be situate in Calcutta.

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* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

3rd.—The objects for which the Company is established are "the Mutual Insurance of ships belonging to members of the Company, and the doing al such other things as are incidental or conducive to the attainment of the abovel objects.'

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the *day of*

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist o five hundred members.

(2.) The Directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a membe- of the Company who insures any ship or share in a ship in pursuance of the regu lations hereinafter contained.

General Meetings.

(4.) The first General Meeting shall be held at such time not being more than three months after the incorporation of the Company, and at such place as the Directors may determine.

(5.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting ; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year at such place as may be determined by the Directors.

(6.) The above-mentioned General Meetings shall be called Ordinary Meetings ; all other General Meetings shall be called Extraordinary.

(7.) The Directors may whenever they think fit, and they shall upon a requisition made in writing by any five or more members, convene an Extraordinary General Meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(9.) Upon the receipt of such requisition, the Directors shall forthwith proceed to convene a General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meeting.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting ; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(11.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the

exception of the consideration of the accounts, balance-sheets and the ordinary report of the Directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows : that is to say, if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five ; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

(13.) If within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting if convened upon the requisition of the members, shall be dissolved. In any other case it shall stand adjourned to the same day in the following week, at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die.*

(14.) The Chairman (if any) of the Directors shall preside as Chairman at every General Meeting of the Company.

(15.) If there is no such Chairman, or if at any meeting he is not present at the time of holding the same, the members present shall chose some one of their number to be Chairman of such meeting.

(16.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place ; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favor of or against such Resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the Chairman directs; and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator: if any member is a minor he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a Corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered Office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form :—

COMPANY LIMITED.

I of being a member of the Company Limited, hereby appoint of as my proxy, to vote for me and on my behalf at the [Ordinary *or* Extraordinary, *as the case may be*] General Meeting of the Company to be held on the day of , and at any adjournment thereof to be held on the day of next [*or* at any meeting of the Company that may be held in the year].

As witness my hand, this day of

Signed by the said in the presence of .

Directors.

(25.) The number of the Directors and the names of the first Directors shall be determined by the subscribers of the memorandum of association.

(26.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in General Meeting; but no regulation made by the Com-

pany in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The Directors shall be elected anually by the Company in General Meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted).

Accounts.

(29.) The accounts of the Company shall be audited by a Committee of five members, to be called the Audit Committee.

(30.) The first Audit Committee shall be nominated by the Directors out of the body of members.

(31.) Subsequent Audit Committees shall be nominated by the members at the Ordinary General Meeting in each year.

(32.) The Audit Committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The Audit Committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company. They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts and they may in relation to such accounts examine the Directors or any other Officer of the Company.

(34.) The Audit Committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations of the Company, and properly drawn up, so as to exhibit a true and correct view of the estate of the Company's affairs, and in case they have called for explanations or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory ; and such report shall be read together with the report of the Directors at the Ordinary Meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally or by sending it through the Post in a letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by Post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the Post ; and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an Extraordinary Resolution, as defined by The Indian Companies' Act, 1866, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses, and Descriptions of Subscribers.

1.	A. B. of	...	...	...	Merchant.
2.	C. D of	...	...	...	"
3.	E. F. of	...	...	...	"
4.	G. H. of	...	...	...	"
5.	I. J. of	...	...	...	"
6.	K. L. of	...	...	...	"
7.	M. N. of	...	...	...	"

Dated the *day of* 18 .

Witness to the above signatures.

O. P. of

FORM C.

Memorandum and Articles of Association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Hotel Company, Limited."

2nd.—The registered Office of the Company will be situate in

3rd.—The subjects for which the Company is eatablished are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities, of the Company contracted before the time at which he ceases to be a members and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The Directors may, with the sanction of the Company in General Meeting, reduce the amount of shares.

3. The Directors may, with the sanction of the Company in General Meeting, cancel any shares belonging to the Company.

4. All the Articles of Table A shall be deemed to be incorporated with these Articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective mames.

Names, Addresses and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
1. A. B. of 2. C. D. of 3. E. F. of 4. G. H. of 5. I. J. of 6. K. L. of 7. M . N. of	
Total shares taken ...	

Dated the day of 186 .

Witness to the above signatures.

O. P. of

Memorandum and Articles of Association of an Unlimited Company having a capital divided into shares.

Memorandum of Association,

1st.—The name of the Company is "The Patent Company."

2nd.—The registered Office of the Company will be situated in

3rd.—The objects for which the Company is established, are "the working of of a patent method of , of which method O. P. of is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M N. of

Dated *day of* 186 .

Witnesses to the above signatures.

Q. R. of

Articles of Association to accompany the preceding memorandum of association.

Capital of the Company.

The capital of the Company is twenty thousand rupees divided into twenty shares of one thousand rupees each.

Application of Table A.

All the Articles of Table A shall be deemed to be incorporated with these Articles, nnd to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by Subscribers.
1. A. B. of 2. C. D. of 3. E. F. of 4. G. H. of 5. I. J. of 6. K. L. of 7. M. N. of	
Total shares taken ...	

Dated the *day of* *186* .

Witness to the above signatures.

Q. R. of

FORM E. As required by the Second Part of the Act.

Summary of Capital and Shares of the Company made upto the day of
Nominal Capital Rs. , divided into sharesof Rs. each.
Number of Shares taken up to the day of
There has been called up on each Share Rs.
Total amount of calls received Rs.
Total amount of calls unpaid Rs.

List of persons holding shares in the Company on the day of and of persons who have held Shares therein at any time during the year immediately preceding the said day of , showing their names and addresses and an account of the Shares so held.

Folio in Register Ledger containing particulars.	Names, Addresses, and Occupations.				Account of Shares.					Remarks.
	Surname.	Christian Name.	Address.	Occupation.	Shares held by existing members on the day of	Additional Shares held by existing members during preceding year.		Shares held by persons no longer members.		
						Number.	Date of transfer.	Number.	Date of transfer.	

THIRD SCHEDULE.

Repealed by Act XIV of 1870.

ACT No. XII. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 23rd March* 1866.)

An Act to provide for the compulsory taking of rights to form and maintain private water-courses from public works of irrigation.

1. Interpretation Clause.—Number.—"Section"—"Local Government."—"Collector."—"Canal Officer."
2. Application to Canal Officer. Stamp.
3. Canal Officer to make local enquiry. And either to reject application, or to cause survey, memorandum and plan to be made. Memorandum to be subscribed and recorded by Canal Officer.
4. Plan and copy of memorandum forwarded to Collector, and copy of memorandum furnished by him to Lumberdars.
5. Proclamation of contents of memorandum.
6. Petition to Collector or against water-course.
7. Procedure of Collector on receipt of petition.
8. Memorandum by Collector.
9. Copy of Collector's memorandum to be sent to Canal Officer.
10. Procedure thereon when Canal Officer and Collector agree that water-course should be formed.
11. When Canal Officer and Collector agree that the water-course should not be formed.
12. When Canal Officer and Collector agree that the water-course should be formed, provision being made as to additional works.
13. Procedure in case Collector and Canal Officer disagree.
14. Procedure where Collector is himself Canal Officer.
15. Procedure after thirty days from the giving of notice under Section 5. Collector to fix compensation.
16. Collector to require applicant to pay purchase-money. On payment applicant to be authorized to take right.
17. Applicant may enter with workmen, &c.
18. Power to Local Government to make Rules.
19. Bar of suits for the compulsory taking, prior to this Act, of land for private water-courses. Procedure in such cases.
20. Present extent of Act. Act may be extended.

Preamble.

WHEREAS it is expedient to provide for the compulsory taking of rights to form and maintain private water-courses through lands lying between public works of irrigation and the lands, mills, sewers, reservoirs or buildings of persons desiring water from such works for the purposes of irrigating, working or cleansing such lands, mills or sewers, or for bathing, drinking, manufacturing or other useful purposes; It is enacted as follows:—

Interpretation Clause. Number. "Section." "Local Government." "Collector." "Canal Officer."

I. In this Act, words in the singular include the plural, and words in the plural include the singular; "Section" means a Section of this Act; and in every place in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such place, and includes a Chief Commissioner: "Collector" includes any Officer authorized to exercise the duties of a Collector of the land revenue of such place; and "Canal Officer" means the chief Officer invested by the Local Government with the immediate control of the District defined by the Local Government for the purposes of irrigation in which such place shall be situate.

Application to Canal Officer.

II. Whenever any person shall require the right to form and maintain, for any of the purposes aforesaid, a private water-course through the lands (hereinafter called the intervening land) lying between a public work of irrigation and his own lands, mills, sewers, reservoirs or buildings, he shall apply in writing under his hand to the Canal Officer, stating

(1) The particulars of the right so required :

(2) That the applicant is willing to pay a reasonable sum for the purchase, rent or revenue thereof, to defray the expense of the survey, memoranda and plans required by this Act, to make reasonable compensation for any injury that may be caused to the intervening lands and to the crops thereon by the formation of the proposed water-course, and to construct and maintain such works connected therewith as may be necessary; and

(3) That he has endeavoured unsuccessfully to enter into an agreement with the owners, tenants and occupiers of the intervening lands as to the amount of the purchase-money or rent and compensation aforesaid.

Stamp.

Such application shall bear stamp of eight annas.

Canal Officer to make local enquiry.

And either to reject application.

Or to cause survey, memorandum and plan to be made.

Memorandum to be subscribed and recorded by Canal Officer.

III. On receiving such application, the Canal Officer shall visit the intervening lands and make enquiry as to the expediency of forming the prposed water-course. If he is not satisfied of such expediency, he shall reject the application. But if he is satisfied of such expediency, he shall cause to be made at the applicant's expense a survey of the intervening lands, and memorandum and plan showing the direction, length, width and depth of the proposed water-course; the bridges, aqueducts, drains or other works (if any) to be made in connection therewith, and the amount of land required therefor. Such memorandum shall also state that, in the opinion of the Canal Officer, the formation of the proposed water-course will be a benefit to the applicant, and will cause no disproportionate injury to the intervening lands, and it shall be subscribed by the Canal Officer and recorded in his Office.

Plan and copy of memorandum forwarded to Collector, and copy of memorandum furnished by him to Lumberdars.

IV. The Canal Officer shall forward the said plan, together with a copy under his hand of such memorandum to the Collector, who shall furnish a copy under his hand of the memorandum to the Lumberdar or Sudder Malguzar of every village through which the proposed water-course is to pass.

Proclamation of contents of memorandum.

V. The Collector shall also cause the contents of the said memorandum to be proclaimed in every such village in the local vernacular language, and shall at the same time cause notice to be published in the same language in every such village that any person interested in the lands to be traversed by the proposed water-course, and objecting to its formation, shall be at liberty to apply to him within fifteen days from the date of such proclamation.

Petition to Collector against watercourse.

Procedure of Collector on receipt of petition.

VI. Any such person may within the time hereinbefore limited present a petition to the Collector, stamped with a stamp of the value of eight annas, and setting forth his objections to the formation of the proposed water-course. The Collector may in his discretion either reject the petition, recording his reasons thereon, or make an enquiry, of which he shall give previous notice to the Canal Officer, as to the validity of the objections, and summon witnesses and require them to produce before him all such documents as he shall think fit. Persons so summoned shall be subject to the law for the time being in force as regards persons summoned before a Collector acting judicially

Memorandum by Collector.

VII. If no objection shall have been made under provisions of Section 6 ;

Or if the Collector shall think that the objections (if any) to the formation of the proposed water-course are insufficient and that such water-course should be formed ;

Or if he shall think that such objections are sufficient, and that it should not be formed ;

Or is he shall think that such objections exist, but that they may be obviated by the construction of bridges, aqueducts, drains or other such works, in addition to the works (if any) referred to in Section 3, and that the proposed water-course should be formed, proper provision being made for the construction and maintenance of such additional works (mentioning them).

He shall make, subscribe and record in his Office a memorandum to the effect.

Copy of Collector's memorandum to be sent to Canal Officer.

VIII. The Collector shall thereupon send the Canal Officer a copy under his hand of such memorandum.

Procedure thereon when Canal Officer and Collector agree that water-course should be formed.

IX. If the Canal Officer shall agree with the Collector that the water-course should be formed, and that no additional works connected therewith are needed. he shall proceed according to the provisions in such case contained in Section 14.

When Canal Officer and Collector agree that the water-course should not be formed.

X. If he shall agree with the Collector that the water-course should not be formed, he shall give notice thereof to the applicant, and all proceedings shall thereupon be stayed.

When Canal Officer and Collector agree that the water-course

XI. If the Canal Officer shall agree with the Collector that the water-course should be formed, proper provision being made for the construction and maintenance of the additional works mentioned in Section 7, he shall cause to be prepared

at the expense of the applicant a memorandum and plan of the same works and shall record such memorandum and plan in his Office and shall forward to the Collector the plan and a copy of the memorandum.

should be formed, provision being made as to additional works.

XII. If the Canal Officer disagree with the Collector's memorandum under Section 7, he shall submit the copy thereof sent to him under Section 8, together with a statement of his own reasons for such disagreement, through the head of his own Department, to the Commissioner of the Division. If the Commissioner agree with the Canal Officer, the Commissioner's decision on the points in dispute shall be final. If the Commissioner disagree with the Canal Officer, the whole case shall be referred to the final decision of the Local Government.

Procedure in case Collector and Canal Officer disagree.

XIII. Where the Collector is himself the Canal Officer, he shall forward to the Commissioner of the Division all petitions presented under Section 6, who shall then proceed in the same manner, and with the same powers, as if he were a Collector acting under Section 6; and in every such case Sections 7, 8, 9, 10 and 11 shall be read as if for the word "Collector" the word "Commissioner of the Division" were substituted.

Procedure where Collector is Canal Officer himself.

XIV. At the expiration of thirty days from the giving of the notice mentioned in Section 5, if under the provisions hereinbefore contained it shall have been determined that the proposed water-course is to be formed, the Canal Officer shall enter upon the intervening lands and mark out the limits of the proposed water-course; and thereupon the Collector shall adjust the amount to be given as purchase-money, rent and revenue, or any of them, for the right and as compensation for the injury respectively mentioned in Section 2. In making such adjustment the Collector shall follow the procedure and may exercise the powers prescribed for and conferred upon him by Act No. VI. of 1857, Sections 4, 5, 6 and 7.

Procedure after thirty days from the giving of notice under Section 5.

Collector to fix compensation.

XV. The Collector shall then require the applicant to pay such amount (if any) as shall be payable at once, and, if the said Collector shall think fit, to deposit with him such security as he shall deem sufficient for the due payment of the rent and revenue (if any) aforesaid, and for the construction and maintenance of the works (if any) connected with the said water-course. And, on compliance with such requirement, the Collector shall authorize the applicant to take and enjoy the right aforesaid.

Collector to require applicant to pay purchase-money.

On payment, applicant to be authorized to take right.

XVI. On receiving such authority from the Collector, it shall be lawful for the applicant, with such workmen, cattle and things as may be necessary, to enter upon the intervening lands and make the proposed water-course within the limits so marked out as aforesaid, and either to remove all or any of the clay, sand, gravel and stones which shall be taken out of the said water-course, or to use all or any parts thereof in making the said water-course, and the works connected therewith, and to use such water-course for the purpose of conveying water from the said public works of irrigation in the direction of and into his lands, mills, sewers, reservoirs or buildings, as the case may be, at the place indicated in the plan mentioned in Section 3; and from time to time, with such workmen, cattle and things as aforesaid, to enter upon the said intervening lands and inspect, repair and cleanse the said water-course, and from time to time for the purposes aforesaid to place upon the same lands and to remove such materials, machinery and other things as he shall think fit.

Applicant may enter with workmen, &c.

XVII. It shall be lawful for the Local Government from time to time to prescribe Rules, consistent with the provisions of this Act, upon all or any of the subjects next hereinafter mentioned; (that is to say):—

Power to Local Government to make Rules.

(1.)—The formation of the water-course and the works (if any) connected therewith, in a proper and workmanlike manner:

(2.)—The removal of the clay, sand, gravel and stones excavated in the formation of the water-course, and not used as aforesaid:

(3.)—The time for the completion of the water-course and the works (if any) connected therewith:

(4.)—The cleansing of the water-course and the maintenance and repair of the water-course and works (if any) connected therewith:

(5.)—The avoidance of unnecessary damage to the surface of the adjoining lands and the crops for the time being thereon, and the compensation for such damage (if any):

(6.)—The prevention of injury to the water-course and of interference with the flow of water through the same:

(7.)—The making good of such injury and the restoration of the flow of water:

(8.)—The adjustment of the rights in the water-course of the persons for whose benefit it is formed, or to whose benefit it may afterwards be extended:

(9.)—In case the water-course be discontinued, the conditions on which the owner of the intervening lands may enter upon the ground within its limits, and

the conditions on which the persons mentioned in paragraph (8) of this Section may be discharged from the further payment of rent or revenue in respect of the water-course.

Such Rules, when they shall have received the sanction of the Governor-General of India in Council, and when they shall have been published in the Official Gazette, shall be read with and taken as part of this Act.

Bar of suits for the compulsory taking, prior to this Act, of land for private water-courses.

Procedure in such cases.

XVIII. No suit shall lie in respect of the compulsory taking, prior to the passing of this Act, of any land for the formation of a private water-course for any of the purposes mentioned in the preamble to this Act. But in every such case it shall be lawful for the Collector, within one year from the passing or extension of this Act, on the application of the person from whom the land was so taken, his representatives or assigns, to adjust, in manner hereinbefore referred to, the amount to be given as purchase-money, rent or revenue for the said land ; and, on failure, within thirty days after such adjustment shall have been notified to the person who shall have taken such land, his representatives or assigns, to pay the said purchase-money, or to give security to the satisfaction of the Collector for the due payment of the said rent or revenue, the Collector may replace the person from whom the land was so taken, his representatives or assigns, in possession of the land aforesaid. The Collector may also award to him or them such compensation as the Collector shall think fit for the injury (if any) done to such land by the formation of the water-course, and the amount of such compensation may be recovered in such manner as the Local Government shall provide.

Present extent of Act.

Act may be extended.

XIX. This Act applies to the Territories respectively under the Governments of the Lieutenant-Governor of the North-Western Provinces and the Lieutenant-Governor of the Punjab. But it may be extended, *mutatis mutandis*, to any other part of British India by an order of the Local Government notified in the Official Gazette; and from the date of any such extension, so much of any Act, Regulation or Rule having the force of law, which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with this Act, or with any Rule prescribed by such Government pursuant to Section 17, shall cease to have effect in such Territories.

ACT No. XIII. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866).

An Act to exempt certain suits in Oude from the operation of the rules of limitation in force in that Province.

1. Certain suits relating to tenures not to be barred if cause of suit arose on or after 13th February 1844.

2. Bar of redemption-suits when mortgage executed before 13th February 1844. Certain redemption-suits may be revived when the mortgage was executed on or after 13th February 1844.

3. This Act not to bar redemption-suits where fixed term for redemption had not expired before 13th February 1856.

4. This Act to be read with Act No. XVI. of 1865.

Preamble.

WHEREAS it is expedient to exempt certain suits in Oude relating to land from the operation of the rules of limitation in force in that Province : It is enacted as follows :—

Certain suits relating to tenures not to be barred if cause of suit arose on or after 13th February 1844.

I. No suit relating to any tenure which, under the provisions of Act No. XVI of 1865, shall be solely cognizable in the Courts of Revenue in the said Province, shall be barred under the rules of limitation in force in such Courts, if the cause of suit shall have arisen on or after the 13th day of February 1844. And any suit or appeal relating to any tenure and cognizable as aforesaid, which may have been rejected or dismissed upon the ground that the suit was barred under the said rules, may be revived and heard on the merits, if the cause of suit shall have arisen on or after such day.

Bar of redemption-suits when mortgage was executed before 13th February 1844.

II. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit in any

Civil Court or any Revenue Court in the said Province to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding. Provided that any suit for the redemption of land, which may have been rejected or dismissed upon the ground that the suit was barred under some rule of limitation in force, or supposed to be in force, in the said Province, may be revived and heard as aforesaid, if the mortgage shall have been executed on or after the said day.

Certain redemption suits may be revived when the mortgage was executed on or after 13th February 1844.

III. Nothing herein contained shall be taken to bar a suit for redemption in any case where by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the 13th day of February 1856; Provided that if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

This Act not to bar redemption-suits where fixed term for redemption had not expired before 13th February 1856.

IV. This Act shall be read with and taken as part of the said Act No. XVI of 1865.

This Act to be read with Act No. XVI of 1865.

THE INDIAN POST OFFICE ACT, 1866.

ARRANGEMENT OF SECTIONS.

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Penalty for practice of acts mentioned in this Section.
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48. Penalty for stealing, &c., or opening letters, &c. by persons employed in the Post Office.
49. Penalty for fraudulently altering marks on letters, &c., by person employed in the Post Office.
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ACT No. XIV. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866).

An Act to amend the law for the Management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.

Preamble.

WHEREAS it is expedient to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office ; It is enacted as follows :

PART I.

Preliminary.

Commencement of Act. Short title.

I. This Act * * * may be cited as "The Indian Post Office Act, 1866."*

Interpretation Clause. "Criminal Court." "Fine." "Clubbed Packet" "Newspaper." "Mail." "British India."

II. In this Act—unless there be something repugnant in the subject or context—"Criminal Court" includes every Judge, Magistrate, Justice of the Peace or Police Magistrate lawfully exercising jurisdiction in criminal cases:"Fine" includes a penalty or forfeiture, or a sum of money due upon a forfeited recognizance: "Clubbed packet" shall be taken to mean a packet containing a collection of letters, not made by an agent of the Post Office, transmitted through the Post Office with the view of the enclosed letters being delivered to more than one person through the agent of the person by whom the packet was made up: "Newspaper" shall include any periodical publication, published at regular intervals not exceeding thirty-one days: "Mails" shall include any letter, parcel or other article conveyed under the provisions of this Act, as well as any box, bag or other article, or any carriage, horse, messenger or other person employed or used by the Post Office for the conveyance or safe custody of the Mails ; and " British India " includes the territories which are now or shall be vested in Her Majesty or Her successors by Statue 21 & 22 Vic., cap. 106 (An Act for the better Government of India).

III. Repealed by Act XIV. of 1870.

References to Act No. XVII of 1854 to be read as made to this Act.

IV. References to any Section of Act No. XVII of 1854 made in any Act passed subsequent thereto, shall be read as if made to the corresponding Section of this Act.

Exclusive privilege of carrying letters vested in the Government of India.

V. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the said Government shall have the exclusive privilege of conveying by Post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing

* The words omitted from this Section were repealed by Act XIV of 1870.

all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say—

(1.) Letters sent by a private friend in his way, journey or travel, so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward or other profit or advantage for receiving, carrying or delivering the same :

(2.) Letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose :

(3.) Letters solely concerning goods or other property sent either by sea or land to be delivered with the goods or property which such letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering such letters. But nothing herein contained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized.

Persons expressly forbidden to collect, carry or deliver letters.

VI. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the following persons are expressly forbidden to collect, carry, tender or deliver any letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing, that is to say—.

(1.) Common carriers of passengers or goods, and their drivers, servants or agents, except letters solely concerning goods in their carriages :

(2.) Owners and Commanders of ships, steam-boats or other vessels passing on any river or canal, or to or from any port in British India, and their servants or agents, except letters solely concerning goods on board.

Appointment of officers for service of Post Office.

VII. For carrying on the service of the Post Office, it shall be lawful for the Governor-General of India in Council to appoint or to authorize the appointment of such Officers, with such official styles or designations, and to invest them with and delegate to them such powers not inconsistent with the provisions of this Act, as the said Governor-General of India in Council may from time to time, deem expedient.

PART II.

Postage Rates.

Postage rates on letters.

VIII. Wheresoever posts or postal communications are or shall be established by the Government of India, postage, if pre-paid by a stamp or stamps as hereinafter provided, shall be charged by weight on letters transmitted by the Letter-Post by land, according to the following scale :—*

On every letter not exceeding a quarter of a tolah in weight,—six pie :

On every letter exceeding a quarter of a tolah and not exceeding half a tolah in weight,—one anna :

On every letter exceeding half a tolah and not exceeding one tolah in weight, —two annas:

And for every half tolah in weight above one tolah, one additional anna: and every fraction of half a tolah above one tolah shall be charged as one additional half tolah.

Every article transmitted by the Letter-Post shall be deemed a letter within the meaning of this Section, unless it be an article on which a different rate of postage shall be chargeable under this Act.

Postage rates on newspapers.

IX. Wheresoever posts or postal communications are or shall be established by the Government of India, postage on newspapers, transmitted by the Letter-Post by land, shall be charged by weight according to the following scale:—

On every newspaper not exceeding ten tolahs in weight,—one anna:

On every newspaper exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas:

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

An extra or supplement to any newspaper. bearing the same date as the newspaper and transmitted therewith under the same cover, shall be deemed part of the newspaper.

Nothing contained in this Act shall be construed to oblige any person to send any newspaper through the Post Office, but it shall be lawful for all persons to send the same in any other manner.

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* The following scale has been substituted for that mentioned in this Section—

On a letter weighing not more than ¼ tola ... ... 6 pie or ½ anna,
On a letter weighing more than ¼ tola, but not more than 1 tola .. 1 anna,
On a letter weighing more than 1 tola, but not more than 2 tolas ... 2 annas,
and so on, one additional anna being charged for every additional tola or fraction of a tola.

X. A newspaper shall not be sent by the Letter-Post at the rates prescribed in the last preceding Section, unless the following conditions be observed, that is to say—

Newspapers how to be sent by Letter-Post.

(1.) It shall be without a cover, or in a short cover open at both ends.

(2.) There shall be no word printed on such newspaper after its publication, or upon the cover thereof, nor any writing or mark upon it, or upon the cover of it, except the name and address of the person to whom it is sent, and the name and address of the sender.

(3.) There shall be no paper or thing enclosed in or with any such newspaper.

XI. Any newspaper sent by the Letter-Post in respect of which the above conditions shall not be observed shall, together with any thing enclosed in or with the same, be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Newspapers when charged with letter-postage.

XII. Proof-sheets marked as such may be sent by the Letter-Post at the rates prescribed for newspapers, provided the contents be correctly certified on the cover by the signature in full of the sender; otherwise the same shall be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Proof-sheets.

XIII. Subject to such Rules and conditions as the Governor-General of India in Council may from time to time direct, books, packets of newspapers and other articles, provided the postage thereon be pre-paid by means of a proper stamp or stamps to be affixed thereon as hereinafter provided, shall be charged with the following rates of postage, without reference to the distance to which they may be carried:—

Postage rates on books, packets of newspapers, &c.

If not exceeding ten tolahs in weight,—one anna:

If exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas:

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

If the postage chargeable on any such book or other article be not pre-paid as aforesaid, it shall be subject to the rate of postage prescribed for banghy-parcels in Section 14 of this Act.

XIV. Inland postage shall be charged by weight and distance, on parcels sent by the Banghy-Post, according to the following scale:—*

Inland banghypostage.

Provided that not more than one letter shall be enclosed in a banghy-parcel, under a penalty not exceeding fifty rupees.

XV. Banghy-postage, when chargeable by distance under Section 14 of this Act, shall be calculated and charged according to such Table of distances as shall be authorized from time to time for that purpose by the Governor-General of India in Council. And it shall be lawful for the Governor-General of India in Council to declare that the distances from or to Post Offices not entered in such Table shall, for the purposes of this Act, be regarded as represented by the distances shown in the Table from or to the Post Offices nearest to them respectively. Each Post Master General shall prepare from the aforesaid Table, in the English and vernacular languages, for the use of every Post Office under his control, a list of all the other Post Offices in India, arranged alphabetically, and showing the distance of each of them from the Post Office for the use of which it is made, and such list shall be affixed in some conspicuous place in such Post Office.

Table of distances for calculation of banghy postage.

XVI. Where there is no Banghy-Post established on any line of road, parcels, books and other articles shall be received and transmitted by the Letter-Post, and shall be charged with postage according to the scale in Section 13 or 14 of this Act, as the case may be, if it be certified in writing, on such parcel, book-packet or other article under the full signature and address of the sender, that it does not contain any letter or other written communication on which a higher rate of postage is chargeable under any Section of this Act.

Where there is no Banghy-Post, parcels, books, &c., may be carried by LetterPost.

If any such certificate be false, any such letter or other written communication contained in such certified parcel, book-packet or other article shall be charged with letter-postage as if sent separately, and the sender shall be subject to the penalty hereinafter provided.

Effect of false certificate.

XVII. All book-packets and parcels not exceeding ten tolahs in weight, sent through the Post Office, shall be conveyed by Letter-Post, and be charged with letter-postage, unless specially directed to be sent by Banghy or Book-packet Post.

Book-packets etc. not exceeding ten tolahs in weight to go by Letter Post in default of special directions.

XVIII. On all parcels chargeable under Section 14 of this Act with banghy-postage according to distance when conveyed by land, ship postage shall be

Ship postage on parcels.

* For the scale referred to is no longer in force. For the new scale, *see* the *Indian Postal Guide*.

charged when they are conveyed by means of Her Majesty's Indian Post by sea, according to the following scale, that is to say—

On every parcel not exceeding twenty tolahs in eight,—two annas :

On every parcel exceeding twenty tolahs but not exceeding forty tolahs in weight,—four annas :

On every parcel exceeding forty tolahs but not exceeding one hundred tolahs in weight,—eight annas :

And for every hundred tolahs in weight above one hundred tolahs,—eight additional annas. Every fraction of one hundred tolahs above one hundred tolahs shall be charged as one hundred additional tolahs ; and if such parcel be conveyed by Her Majesty's Indian Post, partly by land and partly by sea, ship postage shall be charged in addition to inland banghy-postage.*

Governor-General in Council may direct prepayment of postage in all cases.

XIX. It shall be lawful for the Governor-General of India in Council at any time to direct that all or any letters or other articles shall not be forwarded by Post unless the postage thereof shall be fully pre-paid by means of a proper stamp or stamps ; or that on all or any letters or other articles on which the postage shall not be fully pre-paid by a stamp or stamps, or otherwise, as the said Governor-General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

Governor-General in Council may alter the rates of postage.

XX. It shall be lawful for the Governor-General of India in Council from time to time to authorize the levy of postage at rates different from those prescribed in this Act, provided that no increase be made in any particular of the rates prescribed in Sections 8 and 9 of this Act.

Governor-General in Council may fix rates of steam postage.

XXI. It shall be lawful for the Governor-General of India in Council from time to time to direct that postage duties, different from the rates authorized by this Act, shall be chargeable on letters or other articles to be specified in such order, sent through the Post from or to any part of Great Britain or any British colony, or any Foreign country to or from any places in British India. The postage charged on any letter or other article specified in any order of Council made under this Section, whether under the name of steam postage or any other denomination, shall, after the rates of such postage have been published in the Official Gazette of any Presidency, be recovered in the same manner as postage under this Act.

Governor-General in Council may fix rates of postage for articles sent wholly or partly by sea.

XXII. It shall be lawful for the Governor-General of India in Council to fix, from time to time, rates of postage to be levied on all letters or other articles transmitted by Post, by sea, or partly by sea and partly by land, from one part or place in India to another. It shall not be necessary that such rates be uniform ; but they may vary according to the conveyance or route by which such letters or other articles shall be sent.

Governor-General in Council may fix Express postage rates.

XXIII. It shall be lawful for the Governor-General of India in Council from time to time to fix and order any rate of postage to be charged for the conveyance of letters or other articles by Express, in addition to or instead of any other rates of postage chargeable on such letters and articles under this Act.

Re-directed letters.

XXIV. On every letter or other article which shall be re-directed at any Post Office or forwarded by Post from any place to which it shall have been conveyed by Post there shall be charged for the postage thereof from the place at which the same shall be re-directed. or from which it shall be forwarded, in addition to all other postage paid or due thereon, the rate of postage to which it would be liable if posted and pre-paid by stamp at the place where it shall be re-directed or from which it shall be forwarded.

PART III.

Registered Letters.

Letters may be registered.

XXV. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving Post Office, and that a receipt shall be granted for such registered letter or article ; and it shall be lawful for the Governor-General of India in Council to direct that, in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which the sender thereof, shall require to be so registered, and such registration fee shall be paid by means of a stamp or stamps affixed to the letter or other article.

Governor-General in Council may declare in what cases registration shall be compulsory.

XXVI. It shall be lawful for the Governor-General of India in Council from time to time by order to declare in what cases registration shall be compulsory, and to direct that a double registration fee shall be levied on the delivery of any letter or other article which ought, under the order of the Governor-General in Council,

* See *Indian Postal Guide.*

to have been registered at the time of posting, on which the registration fee shall not have been pre-paid as directed in Section 25.

PART IV.

Re-delivered, Unpaid, Unclaimed and Refused Letters.

Re-delivery of letters and other articles once put into Post Office.

XXVII. No person having delivered into any Post Office any letter or other article shall be entitled to recall the same; but nothing in this Section shall prevent the re-delivery of any letter or other article to the sender thereof, subject to such rules and regulations, if any, as the Governor-General of India in Council may from time to time prescribe in that behalf.

Postage on unpaid letters, &c.

XXVIII. The person to whom any letter or other article, the postage of which has not been paid, shall be delivered, shall not be bound to pay the postage if he forthwith return the same unopened; but if he open the same, he shall be bound to pay the postage due thereon. If he forthwith return the same unopened, the sender of the letter or other article shall be bound to pay the postage thereof. If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of the Secretary of State for India by any Post Master General, or by any Officer in charge of a Post Office by order of a Post Master General, in the same manner as a fine may be recovered under this Act; and it shall be lawful for the Officer in charge of any Post Office to withold from the person so refusing, until such postage be paid, any other letter or other article addressed to that person, not being on Her Majesty's Service. Provided always, that if a letter or other article shall appear to the satisfaction of the Post Master of the Office of delivery to have been maliciously sent for the purpose of annoying the person to whom it is addressed, the Post Master of the delivery Office may remit the postage.

Unclaimed letters how to be dealt with.

XXIX. *Clause* 1.—A list of all letters and other articles posted and addressed to persons who cannot be found shall be prepared daily in every Post Office, and exposed for not less than two weeks in the most conspicuous part of such Office; and all such letters and other articles which shall have remained three weeks unclaimed in any Office shall, if the sender's name and address are written on the cover, be returned to the Posting Office to be delivered to the sender free of all charge. All letters and other articles of which the sender's name and address cannot be ascertained unless they be opened, shall, after remaining unclaimed for three weeks as aforesaid, be forwarded to the Office of the Post Master General of the Presidency.

Unclaimed letters when sent to Post Master General's Office to be opened, and returned in Dead Letter covers to senders.

Clause 2.—The Post Master General or some person duly appointed for the purpose and bound to secrecy, shall immediately open all such letters or other articles, and if the addresses of the senders can be discovered, shall enclose them in Dead Letter covers, and return them to the senders. All letters and other articles of which neither the person addressed nor the sender can be found, shall, after they have remained unclaimed in the Office of the Post Master General for one year, be destroyed.

Money, &c., found therein how disposed of.

Clause 3.—All money found in any unclaimed letter or other article shall be paid into the Public Treasury; and all other valuable property found as above shall be sold by the Post Master General of the Presidency or by some one duly authorized by him for that purpose; and the proceeds of the sale shall be paid into the Public Treasury for the benefit of any person who may have a right thereto after deducting all sums due from such person for postage.

Refused letters to be returned to Posting Office.

XXX. Every letter or other article rejected unopened by the person to whom it is addressed, shall, if any postage is due thereon and if the sender's name and address are written on the cover, be returned to the Posting Office, in order that the postage due may be recovered from the sender; in all other cases, or when the sender's name and address are not on the cover, such letter or other article shall be forthwith sent to the Office of the Post Master General of the Presidency, who shall open the letter or other article and take measures to recover the postage from the sender, or shall at his discretion destroy the letter or other article; and all money or other valuable property which such letter or other article may contain, shall be disposed of in the manner prescribed in the preceding Section with respect to such money or property contained in unclaimed letters.

PART V.

Mails on board Inward and Outward bound Vessels.

Commanders of inward-bound vessels carrying Mails how to proceed on arrival.

XXXI. When any vessel arrives by sea at any place within British India at which there is a Post Office, the Commander of such vessel shall, as speedily as possible, cause every letter, mail bag, box and packet on board of such vessel,

which is directed to that place and not excepted from the exclusive privilege of the Post Office, to be delivered either at the Post Office or to some Officer of the Post Office authorized to receive the same; and if there be on board any letter, mail bag, box or packet, directed to any other place and not excepted from the exclusive privilege aforesaid, the said Commander shall as speedily as possible report the same to the Post Master of the place at which he has arrived, and shall act according to the directions he may receive from such Post Master, and the receipt of such Post Master shall discharge such Commander from all responsibility in respect of such letter or packet. Every Commander of a vessel who shall wilfully disobey any of the directions contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

Penalty.

Detention of letters on board inward-bound vessel.

XXXII. Every person being either the Commander of a vessel inward-bound or any one on board such vessel, who shall, within British India, knowingly have in his possession any letter not excepted from the privilege of the Post Office after any part of the letters on board the said vessel shall have been sent to the Post Office, shall forfeit for every such letter a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender, or otherwise in his custody; and every such person who shall detain any such letter after demand made for the same by an Officer of the Post Office, shall forfeit for every such letter a sum not exceeding one hundred rupees.

Bounty-money.

XXXIII. For every letter delivered by the Commander of any ship in conformity with the directions of Section 31 of this Act, the Officer in charge of the Post Office shall pay to the said Commander the sum of one anna; and the sum of one anna shall be chargeable as postage on such letter, in addition to any other postage chargeable thereon under this Act. Provided that no payment shall be made to the Commander of any vessel on account of the delivery of any letter, unless the claim of such Commander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel. Provided also, that nothing contained in Section 31 and the former part of this Section of this Act, shall extend to any letter or mail bag, or box or packet conveyed by any mail ship or mail steamer recognized as such by the Governor-General of India in Council.

Commanders of outward-bound vessels to receive Mails on board.

XXXIV. The Commander of every vessel leaving any place in British India by sea, shall receive on board of such vessel every letter and packet which he shall be required so to receive by any Officer of the Post Office, and shall give a receipt for such letter or packet; and every Commander of a vessel who shall wilfully disobey any direction contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

PART VI.

Postage Stamp.

Stamped letters to be considered as pre-paid.

XXXV. All letters and other articles having a stamp or stamps affixed thereto (such stamp or stamps in every case being affixed on the outside, and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act), shall, provided the stamp or stamps shall not have been used before, be considered as pre-paid.

Postage stamps to be provided by Government.

XXXVI. The Governor-General of India in Council shall cause postage stamps to be provided, denoting such values as the said Governor-General of India in Council may direct, and shall give such orders, and make such other regulations relative thereto, as may be deemed expedient.

Postage stamps to be under management of Officer appointed by Government.

XXXVII. Postage stamps, provided as aforesaid, shall be under the care and management of such Officer or Officers as the Governor-General of India in Council shall from time to time direct: postage stamps shall be consided as stamps issued by Government for the purpose of Revenue, within the meaning of the Indian Penal Code; and all sums of money realized by the sale of such stamps shall be carried in the public accounts to the credit of the Post Office.

Rules for guidance of vendors of postage stamps.

XXXVIII. The Governor-General of India in Council may from time to time make rules for the appointment and government of vendors of postage stamps, and thereby direct how and under what terms and conditions postage stamps may be supplied to them for sale; and whether any and what security shall be given by such vendors; and whether any and what remuneration or discount shall be allowed to them; and how and in what manner, and at what time or times, such vendors shall keep and render their accounts, and pay over the proceeds of any sales made by them, or re-deliver the stamps entrusted to them.

Penalty for breach of such rules.

XXXIX. Government vendors of postage stamps shall be bound by such rules, and in case of any wilful breach thereof, shall be punished with a fine not exceeding two hundred rupees in addition to any other proceedings to which they may be liable.

XL. Any Government vendor of postage stamps who shall be convicted of refusing, or unnecessarily delaying without reasonable excuse, to furnish postage stamps to any person desiring to purchase the same, and tendering in lawful currency the full value thereof (the stamp vendor having in his possession for sale sufficient stamps of the description and value required), shall be punished with a fine not exceeding one hundred rupees.

Penalty for refusing to supply stamps.

XLI. Any Government vendor of postage stamps convicted of taking from a purchaser a higher price than the value denoted on the stamps sold, shall be punished on conviction with imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding six months, or shall be liable to a fine not exceeding one hundred rupees; and shall also be liable to refund to the purchaser the whole amount proved to have been taken in excess, which amount may be recovered by such purchaser before a Criminal Court, in the same manner as any penalty under this Act.

Penalty for selling stamps for higher price than the value denoted thereby.

PART VIII.

Offences against the Post Office.

XLII. No person shall knowingly post, or send, or tender, or deliver, in order to be sent by the Post, any letter, parcel or packet containing any explosive or other dangerous material or substance; and any person contravening this prohibition shall be punished for every such offence with a fine not exceeding two hundred rupees.

Penalty for sending dangerous substance by Post.

XLIII. Every person who shall, for the purpose of defrauding the Post Office Revenue, wilfully certify by writing on an official or other letter or packet delivered at any Post Office for conveyance by Post, that which is not true in respect of such lettter or packet or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver, for conveyance by Post, any letter or packet with any such false certificate thereon; and every person who shall knowingly send or permit to be sent by Post, under colour or pretence of an official communication, any letter, paper, writing or other enclosure of a private nature, shall, for every such offence, be punished with a fine not exceeding five hundred rupees.

Penalty for making false certificate in order to defraud the Post Office.

XLIV. It shall not be lawful for any person, unless acting by express order of the government, to detain, except for a criminal offence, a Post Office messenger whilst carrying the Mails, or to detain any carriage or horse upon which the Mails are being carried, or on any pretence to open a packet or mail bag or box in transit from one Post Office to another, and every person who shall be guilty of any of the offences mentioned in this Section, shall be punished with a fine not exceeding five hundred rupees.

Penalty for detaining Mails or opening mail bags.

XLV. Every person who shall fraudulently retain, or wilfully secrete, or make away with, or keep or detain, or, being required to deliver up by an Officer of the Post Office, shall neglect or refuse to deliver up a Post letter or other article which ought to have been delivered to any other person, or a mail bag, box or packet containing a letter or other article which shall have been sent by the Post, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

Penalty for retaining letters, &c., delivered by mistake.

XLVI. *Clause* 1.—Every person who shall convey, otherwise than by the Post, a letter not excepted from the said exclusive privilege conferred on the Government of India by Section 5 of this Act shall, for every letter so conveyed, forfeit a sum not exceeding fifty rupees.

Penalty for conveying letter in breach of privilege.

Clause 2.—Every person who shall perform, otherwise than by the Post, any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, tendering or delivering a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for performing, otherwise than by the Post, any services incidental to conveying letters.

Clause 3.—Every person who shall make a collection of letters for the purpose of transmitting them through the Post in a clubbed packet, and every person who shall knowingly tender or deliver a letter to be sent in a clubbed packet, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for making clubbed packet or tendering or delivering letter to be sent therein.

Clause 4.—Every person who shall send a letter not excepted from the said exclusive privilege, otherwise than by the Post, or shall either tender or deliver a letter not so excepted, in order to be sent otherwise than by the Post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for sending letter in breach of privilege, or delivering letter to be so sent.

Clause 5.—Every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the Post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for collecting excepted letters to send them otherwise than by Post.

Penalty for breach of provisions of Section 6.

Clause 6. - Every person who shall carry, receive, tender or deliver a letter, or collect letters contrary to the provisions of Section 6 of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for practice of acts mentioned in this Section.

Clause 7.—Every peson who shall be in the practice of committing any of the acts mentioned in this Section, shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees.

Penalty for neglect on the part of persons employed to carry Mails.

XLVII. Every person employed to convey or deliver any mails bag or box, or any letter or other article sent by Post, who shall be guilty, while so employed, of drunkenness, carelessness or other misconduct, whereby the safety of any such bag, box, or letter or other article shall be endangered: or who shall loiter or make delay in the conveyance or delivery of any such bag, box letter or other article, or who shall not use proper care and diligence safely to convey or deliver any such bag lettter or other article, shall be liable to a fine not exceeding fifty rupees: and any person employed to deliver a letter or other article sent by the Post, who shall not duly deliver the same, shall, within a reasonable time not exceeding twenty-four hours, report the fact at the Post Office where he received such letter or other article, and return the same; and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding fifty rupees.

Penalty for stealing, etc., or opening letters- &c-, by persons employed in the Post Office.

XLVIII. Whoever, being in the employ of the Government in the Post Office Department, shall steal, fraudulently appropriate, or wilfully secrete, destroy or throw away any letter or other article sent by Post, or anything contained in any such letter or other article, or shall mutilate or break open any such letter or other article, or any mail bag or box, with the intention of fraudulently appropriating anything therein contained, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding seven years, and shall also be liable to fine.

Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.

XLIX. Whoever being in such employ as last aforesaid, shall fraudulently put any wrong mark on any letter or other article, or shall fraudulently alter, remove or cause to disappear any mark or stamp which is on any letter or other article; or shall fraudulently use or place with or upon any letter or other article, any stamp which shall have been removed from any other letter or other article; or, being entrusted with the delivery of any letter or other article, shall knowingly demand or receive any sum of money for the postage thereof other than the sum duly chargeable for such postage, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for preparing incorrectly or altering or secreting documents by persons employed in the Post Office.

L. Whoever being in such employ as last aforesaid, and being entrusted with the preparing or keeping of any document, shall, with a fraudulent intention, prepare the document incorrectly, or alter that document, or secrete or destroy that document, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for sending letters on which postage has not been paid or charged by persons employed in the Post Office.

LI. Whoever being in such employ as last aforesaid, shall send by the Post, or put into any mail bag or box, any unstamped letter or other article upon which postage has not been paid or charged in the manner prescribed in this Act, intending thereby to defraud the Government of the postage on such letter or other article, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for abetting or concealing offences under this Act.

LII. Whoever abets, within the meaning of the Indian Penal Code, or conceals any offence made punishable by this Act, shall be punished with the punishment provided for such offence.

Any person charged with offence punishable with fine only may be summarily convicted.

LIII. Any person, whether a European British subject or not, who shall be guilty of any offence for which according to the provisions of this Act he shall be liable to a fine only, shall be punishable for such offence by any Criminal Court upon summary conviction.

Conviction to be quashed on merits only.

Form of Conviction.

LIV. No conviction, order or judgment of any Criminal Court, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order or judgment, the evidence on which it proceeds, but the depositions taken or a copy of them shall be returned with the conviction, order or judgment and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment, shall be by aided by what so appears in such depositions.

Magistrate may refer charge to his Assistant.

LV. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the

powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrate acting judicially.

Fines—how levied. Imprisonment if no ufficient distress, &c.

LVI. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Criminal Court or by any Assistant to a Magistrate or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers. In case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take security by way of recognizance or otherwise. If upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress where issued, any such Officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Share of fine to informer.

LVII. A share not exceeding one moiety of every fine imposed and recovered under this Act, may be awarded to the informer.

No proceeding for recovery of fines to be taken without an order.

LVIII. No proceedings shall be taken for the recovery of any fine imposed under the authority of this Act, for offences punishable by fine only, without an order of Government, or an order in writing under the hand of the Director General of the Post Office, or of a Post Master General, or other Officer specially invested with the powers of a Post Master General.

Post Office servant committing offences in allied States.

LIX. If any public servant who shall be employed in the Post Office Department, or shall be appointed a vendor of postage stamps, or entrusted by the Government of India or any local Government with the sale of postage stamps within the dominions of any Foreign Prince or State in India in alliance with Her Majesty, in which a post shall be established by the Government of India. shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed appointed or entrusted as aforesaid within British India, such public servant shall be guilty of an offence, and, on conviction thereof, shall be punished in the same manner as if such act had been done or omitted within British India; and every such person may be tried, convicted and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-General of India in Council, to take cognizance of offences committed in such dominions by public servants, or by any Court or Magistrate, or other competent Officer in any part of British India, in the same manner as if the offence had been committed in such part.

Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.

LX. If any Officer in charge of a Post Office suspect that any letter or other article lying for delivery at his Office contains any contraband article, or any article on which duty is owing to Government; or that any letter or other article lying for delivery at the Post Office contains any writing or enclosure in contravention of the provisions of Section 14, 16 or 43 of this Act, it shall be lawful for such Officer to summon the person to whom the letter or other article is directed, to attend at the Post Office by himself or agent, within fourty eight hours after the arrival thereof at the Post Office, and to open the same in the presence of the person to whom it is directed, or of that person's agent, and if that person shall not so attend by himself or agent, then to open it in the absence of that person. Provided that if the Officer in charge be under the rank of a Post Master, he shall call in two respectable persons as witnesses before he shall open a letter or other article in the absence of the person to whom it is addressed. Provided also, that in all cases the opened letter or other article shall be subsequently delivered to the persons to whom it is addressed unless it be required for ulterior proceedings, and that the opening of the same and the circumstances connected therewith shall be immediately reported to the Post Master General. It shall also be lawful for any Officer in charge of a Post Office to refuse to forward any parcel through the Post Office by sea to any Foreign port, or to any place not on the Continent of India, unless such parcel be accompanied by a Custom House Pass.

Property sent by the Post to be laid in

LXI. Whenever an offence shall be committed in respect of any mail bag or box, or any letter or other article sent by the Post, it shall be lawful to lay, in the

the Post Master General.

charge to be preferred against the offender, the property of such mail bag, box, letter or other article in the Post Master General of the Presidency; and it shall not be necessary in the charge to allege or to prove upon the trial or otherwise, that such mail bag, box, letter or other article was of any value; and in any charge to be preferred against any person employed under the Post Office for any offence committed against this Act, it shall be lawful to state that such offender was employed under the Post Office at the time of committing the offence, without stating further the nature or particulars of his employment.

PART VIII.

Miscellaneous.

Letters on Her Majesty's service, duly certified as such, how to be charged.

LXII. Letters and other articles on Her Majesty's service, certified to be such by the signature of any public Officer authorized in that behalf by the Governor-General of India in Council, shall be forwarded by the Post, and the postage due thereon shall be charged to or recovered from the several public Departments to or from which such letters or packets are sent, in such manner as the said Governor-General of India in Council shall, from time to time, direct.

Governor-General in Council may frame rules.

LXIII. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the conduct of the Post Office not inconsistent with this Act, and therein to prescribe the regulations, conditions and restrictions according to which all letters and other articles shall be posted, forwarded, conveyed and delivered.

District daks.

LXIV. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the management of all or any zamíndárí, tháná or other district dáks, and to declare from time to time what portions of this Act shall be applicable to such dáks and to persons employed in connection therewith.

Government not responsible for loss.

LXV. The Government shall not be responsible for any loss or damage which may occur in respect of any thing entrusted to the Post Office for conveyance; and no person employed by the Government in the Post Office Department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously or fraudulently.

ACT No. XV. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to amend the Law of Partnership in India.

1. *Lender not a partner by advancing money for share of profits.*
2. *Remuneration of agents, &c., by profits not to make them partners.*
3. *Certain annuitants not to be deemed partners.*
4. *Receipt of profits &c., not to make the seller a partner.*
5. *Interpretation of "person."*

Preamble.

WHEREAS it is expedient to amend the Law relating to Partnership; It is enacted as follows :—

Lender not a partner by advancing money for share of profits.

I. The advance of money by way of loan to a person engaged or about to engage in any trade or undertaking upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not, of itself, constitute the lender a partner with the person or the persons carrying on such trade or undertaking, or render him responsible as such.

Explanation.—A person who being entitled, whether as a retiring partner or otherwise, to demand and receive present payment of the value of any share or interest of or in the capital or other funds of a business shall, after the value thereof shall have been ascertained between such person and the person or persons liable to pay the same, agree in writing to allow the same to remain therein or to be used by such person or persons for the purposes of such business, shall be construed to make an advance of money by way of loan within the meaning of this Section.

II. No contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

Remuneration of agents, &c., by profits not to make them partners.

III. No person being the widow or child of the deceased partner of a trader, and receiving by way of annuity a portion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of or to be subject to any liabilities incurred by such trader.

Certain annuitants not to be deemed partners.

IV. No person receiving by way of annuity or otherwise a portion of the profits of any business, in consideration of the sale by him of the good-will of such business, shall, by reason only of such receipt, be deemed to be a partner of, or be subject to, the liabilities of the person carrying on such business.

Receipt of profits, &c., not to make the seller a partner.

V. In the construction of this Act, the word "person" shall include a Partnership Firm, a Joint Stock Company, and a Corporation.

Interpretation of "person."

ACT No. XVI OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to relieve the Governor-General of India in Council from the duty of signing the Commissions mentioned in Sections 22 and 44 of the High Court's Criminal Procedure Amendment Act, 1865.

1. Seal to be made. Stamping of Commissions under Act No. XIII of 1865, Sections 22 and 44.

Preamble.

WHEREAS it is expedient to relieve the Governor-General of India in Council from the duty of signing the Commissions respectively mentioned in Sections 22 and 44 of 'The High Courts' Criminal Procedure Amendment Act, 1865;" It is enacted as follows :—

Seal to be made.

Stamping of Commissions under Act No. XIII of 1865, Sections 22 and 44.

I. A Seal shall be made at the expense of the Government of India with this inscription, "The Seal of the Governor-General of India in Council," and shall be kept in the custody of such person as the Governor-General of India in Council shall from time to time appoint in that behalf. and the Commissions respectively mentioned in Sections 22 and 44 of "The High Courts' Criminal Procedure Amendment Act, 1865," may be stamped with such Seal by such person as the Governor-General of India in Council shall from time to time appoint in that behalf; and when so stamped shall be equally valid and effectual as if they had been signed by the Governor-General of India and the Members of his Council.

ACT No. XVII. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to provide for the establishment of a Public Museum at Calcutta.

1. Building to be erected for Indian Museum.

2. Building to be erected according to plans approved by the Secretary to the Department of Public Works and the Council of the Asiatic Society.

3. Trustees of the Indian Museum incorporated.

4. Trustees empowered to receive bequests, donations and subscriptions.

5. Ex-officio Members. Provision in case of two offices being held by one person.

6. Power to appoint new Trustees.

7. Quorum.

8. Power to Trustees to make, alter and repeal bye-laws and to appoint Officers and servants.

9. Trustees may exchange or sell duplicates.

10. Trustees shall furnish annual reports and accounts.

11. Asiatic Society to remove their collections to the new building.

12. The Asiatic Society to retain their Library, &c., and the Council of the Society to have exclusive possession of the portions of the new building to be set part for the Society.

13. Collections of Asiatic Society to be kept distinguished in the Museum.

14. Custody of the collection of the Asiatic Society until completion of the new building.

15. In case of determination of Trust, Asiatic Society may reclaim their collections.

Preamble.

WHEREAS it is expedient to provide for the establishment of a Public Museum at Calcutta, to be called the Indian Museum; It is enacted as follows:—

Building to be erected for Indian Museum.

I. The Governor-General of India in Council shall cause to be erected at the expense of the Government of India, a suitable building in Calcutta, on or near the site now occupied by the Small Cause Court, to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their Library, Manuscripts, Maps, Coins, Busts, Pictures, Engravings and other property.

Building to be erected according to plans approved by the Secretary to the Department of Public Works and the Council of the Asiatic Society.

II. The said building shall be constructed according to such plans and specifications as shall have been approved of and agreed upon by and between the Secretary to the Government of India in the Public Works Department for the time being and the Council of the said Society; and in case the said Secretary and Council shall be unable to agree with reference to any such plans or specifications, the point or points on which they shall so disagree shall be referred to the final decision of the Governor-General of India in Council. Such building shall be completed, so far as to be in a condition to receive the collections mentioned in section 11 of this Act, within five years from the date of the passing of this Act; and the Government of India shall keep the building in repair, and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Indian Museum.

Trustee of the Indian Museum incorporated.

III. The Chief Justice of the High Court of Judicature at Fort William of Bengal,

the Bishop of Calcutta,

the Vice-Chancellor of the University of Calcutta,

the Secretary to the Government of India in the Home Department,

four other persons to be nominated by the Governor-General of India in Council,

the President of the Asiatic Society of Bengal and three other Members of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India,

and their successors, appointed as hereinafter directed and subject to the provisions hereinafter contained, shall be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be excercised so long and so often as there shall exist five Members thereof.

Trustees empowered to receive bequests, donations and subscriptions.

IV. It shall be lawful for the said Body Corporate to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and to hold the same and to lay out such money for the purposes of the said Indian Museum in the improvement and enlargement of the collections deposited in, presented to, or purchased for, the said Museum, and all such collections shall become the property of the said Body Corporate for the purposes of their Trusts herein mentioned; and the said Body Corporate shall have the exclusive possession, occupation and control, for the purposes of such Trusts, of the said Building, other than those portions, thereof which upon its completion shall be set apart by the said Body Corporate for the records and offices of the Geological Survey of India, and for the accommodation of the said Society, and the reception of their Library, Manuscripts, Maps, Coins, Busts, Pictures, Engravings and other property.

Ex-officio Members.

V. The persons for the time being holding the offices respectively mentioned in Section 3 of this Act shall be ex-officio Members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said

offices respectively. In the event of any two of the said offices being held by the same person, it shall be lawful for the Governor-General of India in Council from time to time to nominate such other person as to him may seem fit, to be a Trustee under this Act so long as the said two offices shall be held by one person. Provided that when and so often as the said Chief Justice, Bishop, Vice-Chancellor, Secretary to the Government of India in the Home Department, or Superintendent of the Geological Survey of India shall also be the President of the said Society, the Council of the Society may nominate any other person being a Member of the Society to be a Trustee under this Act so long as such Presidency shall be held by the said Chief Justice, Bishop, Vice-Chancellor, Secretary or Superintendent.

Provision in case two offices being held by one person.

VI. If any of the said Trustees to be nominated by the Governor-General of India in Council or by the Council of the said Society, or any Trustee appointed as herein provided, shall die or be absent from India for a period exceeding twelve months, or desire to be discharged, or refuse or become incapable to act, then and in every such case it shall be lawful for the Governor-General of India in Council or the Council of the said Society, as the case may be, to appoint a new Trustee in the place of the Trustee so dying or being absent from India or desiring to be discharged or refusing or becoming incapable to act as aforesaid, and every Trustee so appointed shall thereupon become and be a member of the said Body Corporate as fully and effectually as if he had been hereby constituted as Trustee.

Power to appoint new Trustees.

VII. At all meetings of the said Body Corporate, five shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Quorum.

VIII. It shall be lawful for the said Body Corporate from time to time to make, alter and repeal bye-laws consistent with this Act for the management of the said Museum, for the summoning, holding and adjournment of General and Special Meetings of Members of the Body Corporate, for securing the attendance of the Members at such meetings, for the provision and keeping of minute books and account books, for the compiling of catalogues and for all other purposes necessary for the execution of their Trust. And all officers and servants, salaried or otherwise, employed in the care or management of the Trust property shall be appointed, and may be removed or suspended by the said Body Corporate, subject to such regulations and conditions as such Body Corporate shall think proper, and such officers and servants shall be considered public servants within the meaning of the Indian Penal Code.

Power to Trustees to make, alter and repeal bye-laws and to appoint officers and servants.

IX. It shall be lawful for the Trustees from time to time to order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities to be exchanged for manuscripts, books, or other objects of interest, or to direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Trustees may exchange or sell duplicates.

X. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings, acts, and ordinances for the past twelve months, and further shall furnish on or before the same day in each year to such Auditor as the Governor-General of India in Council shall appoint in this behalf accounts of all monies expended by the Trustees during the past twelve months supported by the necessary vouchers. The said report and accounts shall be annually published for general information.

Trustees shall furnish annual reports and accounts.

XI. The Council of the said Society shall cause the collections belonging to the Society and illustrative of Indian Archæology and the several branches of Natural History, and all additions that may be made thereto, whether before or after the time next hereinafter mentioned, to be removed to and deposited in the said building, at the expense of the Government of India, as soon as the same shall be completed so far as aforesaid.

Asiatic Society to remove their collections to the new buildings.

XII. The said Society shall continue to have the same exclusive property in and control over their said Library, Manuscripts, Maps, Coins, Busts, Pictures and Engravings, which they at present possess, and the Council of the said Society shall have the exclusive possession, occupation and control, for the purposes of the said Society, of those portions of the said building which shall, upon its completion, be set apart for the accommodation of the said Society and the reception of their Library and other property mentioned in Section 4 of this Act.

The Asiatic Society to retain their Library, &c., and the Council of the Society to have exclusive possession of the portions of the new building to be set apart for the Society.

XIII. Every article in the collections and additions mentioned in Section 11 of this Act shall be marked and numbered and shall (subject to the provisions contained in Sections 9, 14 and 15 of this Act) be kept and preserved in the said Indian Museum with such marks and numbers, and an inventory of such articles shall be made by the said Society, and, on such articles being deposited as aforesaid, one copy of such inventory shall be signed by the said Trustees, and kept by the said Society, and another copy shall be signed by the Council of the said Society, and

Collections of Asiatic Society to be kept distinguished in the Museum.

kept by the said Trustees. All objects taken in exchange under Section 9 of this Act for, and all monies payable on sale under the same Section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with trusts, powers and declarations by this Act limited and declared concerning the same articles.

Custody of the collectors of the Asiatic Society until completion of the new building.

XIV. Until the said building shall be completed so far as aforesaid, the said collections of the said Society and all additions that may be made thereto in the meantime shall remain in the house in which they are at present, but under the care of such persons as by the Trustees shall be approved and nominated in this behalf, with such salaries and allowances as, subject to the approval of the Government of India, the trustees shall limit and direct; and the said collections and additions shall be open to all persons desirous to view the same, under such rules as by the said Trustees shall be established, and the said salaries and allowances shall be paid by the Government of India.

In case of determination of Trust, Asiatic Society may reclaim their collections.

XV. In the event of the Trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in Section 11 of this Act shall become the property of the said Society or their assigns; and the said Society shall vacate the portions of the said building which shall have been set part as in the twelfth Section of this Act is mentioned; and such portions shall then become the property of the Government of India, anything in this Act contained to the contrary notwithstanding.

ACT No. XX. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd April 1866.)

An Act to provide for the Registration of Assurances.

Bill No. 24 of 1870 proposes to repeal this Act.

ACT No. XXI. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd April 1866.)

An Act to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

1. Short title.
2. Commencement of Act.
3. Interpretation of terms. "Native Husband." "Native wife." "Native Law." "Month" and "year." "High Court." Number.
4. Convert deserted by his wife on religious grounds may sue for conjugal society.
5. Convert deserted by her husband on religious grounds may sue for conjugal society.
6. Court in which suit shall be brought.
7. Suit to be commenced by verified petition.
8. On service of petition, citation issued to respondent.
9. Form of citation.
10. Service of citation.
11. Procedure where respondent does not obey citation.
12. Points to be proved on appearance of petitioner.
13. First interrogation of respondent.
14. Interrogations by Judge may be public or private.

15. Procedure when female respondent refuses to cohabit with petitioner. Adjournment for a year. Interview.
16. Procedure on expiration of adjournment. Interrogation of respondent. Decree.
17. Decree in case of male respondent refusing to cohabit on the ground of petitioner's change of religion. Proviso.
18. Decree if respondent so refuse in the case of an unconsummated marriage, either party being "impubes" at time of marriage.
19. Liberty to parties to marry again.
20. Judge may order Commission to issue for examination of exempted persons.
21. Proof of the marriage and the desertion or repudiation of petitioner in consequence of conversion.
22. Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.
23. Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.
24. Revival of suit after such dismissal.
25. Petitioner's cruelty or adultery to bar the suit.
26. Male petitioner's cohabitation with one of several wives to bar the suit.
27. Dissolution of marriage not to affect status or rights of children.
28. Power to Court to award alimony.
29. No appeal under this Act; but the Judge may state case raising question whether conversion has dissolved marriage.
30. Case to state necessary facts and documents and suit to be stayed.
31. Case to be decided by three Judges.
32. High Court may refer case to Judge for additions or alterations.
33. High Court may decide question raised, and Judge shall dispose of case accordingly.
34. Saving of Roman Catholic marriages.
35. Extent of Act.

WHEREAS it is expedient to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity deserted or repudiated, on religious, grounds by their wives or husbands; It is enacted as follows:— Preamble.

I. This Act may be cited as "The Native Converts' Marriage Dissolution Act, 1866." Short title.

II. This Act shall commence and take effect on and from the first day of May 1866. Commencement of Act.

III. In this Act— Interpretation of terms.

"Native husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall not be a Christian, a Muhammadan nor a Jew: "Native Husband."

"Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall not be a Christian, a Muhammadan nor a Jewess: "Native Wife."

"Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians, Mahammadans and Jews: "Native Law."

"Month" and "year" shall respectively mean month and year according to the British calendar: "Month" and "year"

"High Court" shall mean the highest Civil Court of appeal in any place to which this Act extends: "High Court."

And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular. Number.

IV. If a Native Husband change his religion for Christianity, and if in consequence of such change his Native Wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society. Convert deserted by his wife on religious grounds may sue for conjugal society.

V. If a Native Wife change her religion for Christianity, and if in consequence of such change her Native Husband, for the space of six continuous months, destrt or repudiate her she may sue him for conjugal society. Convert deserted by her husband on religious grounds may sue for conjugal society.

VI. If the respondent, at the time of commencement of such suit, reside within the local limits of the ordinary original Civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court: otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the District in which the defendant shall reside at the commencement of the suit. Court in which suit shall be brought.

VII. The shall be commenced by a petition in the form in the first Schedule to this Act, or as near thereto as the circumstances of the case will allow. The Suit to be commenced by verified pe-

tition.

statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition Repealed by Act. VII. 1870 may be amended by permission of the Court.

On service of petition citation issued to respondent.

VIII. A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge.

Form of citation.

IX. In ordinary cases the citation shall be in the form in the second Schedule to this Act, or as near thereto as the circumstances of the case will allow. But where the respondent is exempt by law from personal appearance in Court, or where the Judge shall so direct, the citation shall be in the form in the third Schedule to this Act, or as near thereto as the circumstances of the case will allow.

Service of citation.

X A copy of the citation sealed with the seal of the Court shall be served on the respondent; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Procedure where respondent does not obey citation.

XI. If the respondent shall not obey such citation, and comply with every other requirement made upon her or him under the provisions of this Act, she or he shall be liable to punishment under Section 174 of the Indian Penal Code.

Points to be proved on appearance of petitioner.

XII. On the day fixed in the citation the petitioner shall appear in Court, and the following points shall be proved:—

(1.) The indentity of the parties:

(2.) The marriage between the petitioner and the respondent:

(3.) That the male party to the suit has completed the age of sixteen years, that the female party to the suit has completed the age of thirteen years.

(4.) The desertion or repudiation of the petitioner by the respondent:

(5.) That such desertion or repudiation was in consequence of the petitioner's change of religion;

(6.) And that such desertion or repudiation had continued for the six months immediately before the commencement of the suit.

First interrogation of respondent.

XIII. The respondent, if such points be proved to the satisfaction of the Judge, shall thereupon be asked whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal. In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge, but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall, in his discretion, excuse the respondent from such appearance, the interrogations shall be made by Commissioners acting under such Commission as hereinafter mentioned.

Interrogations by Judge may be public or private.

XIV. Every interrogation mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room. If any such interrogation take place in open Court, the Judge may, so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

Procedure when female respondent refuses to cohabit with petitioner.

Adjournment for a year.

Interview.

XV. If the respondent be a female, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall make an order adjourning the case for a year, and directing that, in the interim, the parties shall, at such place and time as he shall deem convenient, have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

Procedure on expiration of adjournment.

Interrogation of respondent.

Decree.

XVI. At the expiration of such adjournment the petitioner shall again appear in Court and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to; and if the points mentioned in the twelfth and this Section of this Act shall be proved to the satisfaction of the Judge, and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the respondent shall be taken to have finally deserted or repudiated the petitioner, and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that the marriage between the parties is dissolved.

Decree in case of male respondent refusing to cohabit on the ground of petitioner's change of religion.

XVII. If the respondent be a male, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answer and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year. At the expiration of such adjournment, the petitioner shall again appear

in Court ; and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the Judge shall thereupon pass such a decree as last aforesaid : Provided that if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall, *mutatis mutandis* be the same as in the case of a female respondent.

Proviso.

XVIII. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated ; and if, in answer to the interrogatories made pursuant to the thirteenth Section of this Act the respondent shall refuse to cohabit with the petitioner, and allege, as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid.

Decree if respondent so refuse in the case of an unconsummated marriage either party being *impubes* at time of marriage.

XIX. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such re-marriage shall be legitimate, any Native law to the contrary notwithstanding. Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person .

Liberty to parties to marry again.

XX. In suits instituted under this Act, the Judge shall order a Commission to issue to such persons, whether males or females or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid. The provisions of the Code of Civil Procedure shall, so far as practicable apply to Commissions issued under this Section.

Judge may order Commission to issue for examination of exempted persons.

XXI. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Proof of the marriage and the desertion or repudiation of petitioner in consequence of conversion.

XXII. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.

XXIII. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

Dismissal of suit if either party is under the age required by the Act or if the parties are cohabiting, or the respondent is willing to cohabit.

XXIV. If at any time within twelve months after a decree dismissing the suit upon any of the grounds mentioned in the last preceding Section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent ; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall re-commence at the stage at which it had arrived immediately before the passing of such decree ; and, after the proofs, interrogations, interview and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in the sixteenth Section of this Act.

Revival of suit after such dismissal.

XXV. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this Section shall not be revived.

Petitioner's cruelty or adultery to bar the suit.

XXVI. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents ; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth Section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this Section.

Male petitioner's cohabitation with one of several wives to bar the suit.

XXVII. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children, or of any right or interest which they would have had

Dissolution of marriage not to affect status or rights of children

according to the Native law applicable to them, by way of maintenance, inheritance, or otherwise, in case the marriage had not been so dissolved as aforesaid.

Power to Court to award alimony.

XXVIII. If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties. Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

No appeal under this Act; but the Judge may state case raising question whether conversion has dissolved marriage.

XXIX. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act: but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a Native husband or a Native wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall, either of his own motion or on the application of the respondent, state the case and submit it with his own opinion thereon for the decision of the High Court.

Case to state necessary facts and documents and suit to be stayed.

XXX. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided.

Case to be decided by three Judges.

XXXI. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the Presidency Towns; and the petitioner and respondent may appear and be heard in the High Court in person or by Advocate or Vakeel.

High Court may refer case to Judge for additions or alterations.

XXXII. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

High Court may decide question raised, and Judge shall dispose of case accordingly.

XXXIII. It shall be lawful for the High Court upon the hearing of any such case to decide the questions raised thereby, and to deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

Saving of Roman Catholic marriage.

XXXIV. Nothing contained in this Act or in Acts No. XXV of 1864 and V of 1865 shall be taken to render invalid any marriage of a Native convert to Roman Catholicism if celebrated in accordance with the rules, rites, ceremonies and customs of the Roman Catholic Church; and no Clergyman of such Church shall be liable to any suit or penalty under the provisions of either of the two Acts last hereinbefore mentioned, for solemnizing any such marriage.

Extent of Act.

XXXV. This Act shall extend to all the territories that are or shall become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca. But it may be extended, with the consent of the Governor-General of India in Council, by order of the Governor of such Settlement to all or any part of the territory subject to his Government; and he may, with such consent as aforesaid, determine the Court in which suits against residents in such territory shall be commenced under the povisions of this Act. In case of such extension, if the Indian Penal Code shall not then apply to the said Settlement, the respondent's personal appearance pursuant to this Act may be enforced by such procedure as the said Governor, with such consent as aforesaid, shall provide in that behalf.

THE FIRST SCHEDULE.

Form of Petition.

Stamp
Rs. two.

To the Judge of the Civil Court of
The day of 18 .

The petition of A. B. of
Sheweth :—

1. That your petitioner was born on or about the day of 18 .
2. That your petitioner was on the day of in the year 18 lawfully married to C. D. at
3. That the said C. D. is now of the age of years or thereabouts.
4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18 .
5. That previous to the day of 18 your petitioner changed his religion for Christianity, and that on such day he was baptized and became a member of the Church of
6. That on the day of 18 [*at least six months prior to the date of the petition*], the said C. D. deserted your petitioner, and has not since assumed cohabitation with him.
7. That such desertion was in consequence of your petitioner's said change of religion.
8. That there is no collusion nor connivance between your petitioner and the said C. D.

Your petitioner therefore prays that your Honour will order the said C. D. to live and cohabit with petitioner, or declare that your petitioner's marriage is dissolved.

A. B.

Form of verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

THE SECOND SCHEDULE.

Form of Citation in ordinary cases.

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you the said C. D. have filed his [*or* her] petition against you in the Civil Court of alleging that you the said C. D. have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent to live and cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved : Now this is to command you that, at the expiration of days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18 .

(Signed) E. F.

Judge of the Civil Court of

Indorsement to be made after service.

The citation was duly served by G. H. on the within named C. D. of at on the day of 18

(Signed) G. H.

THE THIRD SCHEDULE.

Form of Citation in case of respondent exempt from appearance in Court.

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you the said C. D. has filed his [*or* her] petition against you in the Civil Court of alleging that you the said C. D. have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent to cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved. Now this is to command you that, at the expiration of days [*at least one month*] from the service of this on you, you do hold yourself in readiness to answer and do answer such interrogatories as may be put to you by Commissioners duly authorized in that behalf under a Commission issued by this Court, in reference to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18

(Signed) E. F.

Judge of the Civil Court of

Indorsement to be made after service.

The citation was duly served by G. H. on the within named C. D. of on the day of 186

(Signed) G. H.

ACT No. XXIV. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th July 1866.)

An Act to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.

1. Interpretation Clause.—"High Court."—"Lieutenant-Governor."—"Magistrate."—"Registrar." Number. Gender.

2. Charge to be delivered with record of preliminary enquiry.

3. High Court to consider, and if it will, to amend, alter or add to the charge. Charge with amendments, alterations or additions (if any) to be recorded.

4. Accused to have copies of examinations.

5. Effect of charge.

6. High Court may order an unsustainable charge not to be proceeded with. Effect of such order.

7. Places of holding sittings.

8. High Court may order European British subjects committed in certain districts in certain seasons of the year, to be tried at a particular place and confined in a particular jail.

9. Procedure on direction of High Court as to trial.

10. Trials under Section 2 to be by Jury.

11. Summoning of Jurors to serve on trials. Military men not exempt.

12. Jury for trial of European British subjects.

13. Number of Jury requisite for verdict of guilty.

14. Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court.

15. Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court.

16. Power to reserve for High Court any question of law or evidence. Procedure where no such question is reserved.

17. Save as aforesaid Code of Criminal Procedure to apply to Juries, trials, sentences and executions under this Act.

18. Parts of Act VIII of 1859 suspended in High Court. High Court to record its judgments and orders as it shall by rule direct.

19. Court may fix time for appealing from judgments &c., of its own Judges or Division Courts.

20. Execution may issue in certain cases befor the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained.

21. Court in the exercise of its original Civil jurisdiction may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney. Proviso.

22. Testamentary and Intestate Procedure.

23. Short Title.

Preamble.

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in the exercise of its Original Criminal, and its Civil, Intestate and Testamentary Jurisdictions ; It is hereby enacted as follows :—

Interpretation Clause.

I. In this Act, unlees there be something repugnant in the subject or the context—

"High Court."

" High Court " denotes Her Majesty's High Court of Judicature for the North-Western Provinces of the Presidency of Fort William :

"Lieutenant-Governor."

" Lieutenant-Governor" denotes the Lieutenant-Governor for the time being of the said Provinces :

"Magistrate."

" Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure :

"Registrar."

" Registrar" includes, besides such Officer, any Officer specially appointed by the Lieutenant-Governor to discharge the functions given by this Act to the Registrar :

Number. Gendor.

Words in the singular include the plural, and words denoting the masculine gender include females.

Charge to be delivered with record of preliminary enquiry.

II. Any Justice of the Peace or Magistrate within or without the said Provinces before whom any European British subject shall be brought for an offence committed within the said Provinces, or for an offence which under or by virtue of any law or order made or issued by the Governor-General of India in Council shall have been made triable by the High Court, and who shall commit or hold to bail such person for trial shall, together with the record of the preliminary enquiry and all recognizances and other documents, and any weapon or article of property connected with the case, and translations into English of any writings not in that language, deliver to the Registrar of the High Court a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

High Court to consider, and, if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

III. The High Court, or any Officer specially authorized by the High Court in this behalf, shall consider the charge, and may, if it appear necessary or expedient so to do amend alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Accused to have copies of examinations.

IV. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charges.

V. Upon charges recorded as aforesaid persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, (and subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

High Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

VI. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the High Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Places of holding sittings.

VII. The High Court shall ordinarily hold its sittings at such place as the Lieutenant-Governor shall direct in that behalf, but the High Court or any Division of the High Court may from time to time, with the approval of the Lieutenant

Governor, hold sittings at such other places in the said Provinces as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

High Court may order European British subjects committed in certain districts in certain seasons of the year, to be tried at a particular place and confined in a particular jail.

VIII. It shall be lawful for the High Court to direct that all European British subject committed or bailed for trial within certain specified districts, or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail being one of the jails appointed by the Government for the reception of such prisoners.

Procedure on direction of High Court as to trial.

IX. If the trial shall be directed to take place at the usual place of sitting o the Court, or if no general direction shall have been given under the last preceding Section, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the Jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal Jail of or nearest to the place at which such person is directed to be tried, and the Officer in charge of such Criminal jail shall keep such person in safe custody until discharged in due course of law. The High Court may direct that the person charged shall be admitted to bail, or that the bail required by the Justice of the Peace or Magistrate shall be reduced.

Trials under Section 2 to be by Jury.

X. All trials under Section 2 of this Act shall be by Jury.

Summoning of Jurors to serve on trials.

Military men not exempt.

XI. Whenever the High Court shall have given notice of its intention to hold sittings at any place for the exercise of its original Criminal jurisdiction, the Court of Session at such place, shall take and cause to be taken the measures prescribed by Sections 336 to 340, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful after communication with the commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military Service, resident within ten miles of its place of sitting, as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the High Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure. But no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent military duty, or for any other special military reason. The Juries for the trial of European British subjects as aforesaid, shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officer have been summoned, then solely from the persons summoned under the same Sections.

Jury for trial of European British subjects.

XII. If any European British subject charged as aforesaid, shall so require before the Jury shall be empanelled, the majority of the Jurors shall consist of Europeans or Americans, or both Europeans and Americans.

Number of Jury requisite for verdict of guilty.

XIII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal procedure Code not to apply to sentences by High Court.

XIV. So much of Section 380 of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the same Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the High Court passed in the exercise of its original Criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court.

XV. So much of the 26th Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the High Court acting in the exercise of its original Criminal jurisdiction, but the High Court shall

pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to reserve for High Court any question of law or evidence.

XVI. When any person has been convicted of an offence before a Judge of the High Court, acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the district or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in Section 385 of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence the person convicted shall, pending the decision thereon, be remanded to jail. If the decision of the High Court be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question is reserved.

Save as aforesaid Code of Criminal Procedure to apply to Juries, trials, sentences and executions under this Act.

XVII. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the High Court, acting in the exercise of its original Criminal jurisdiction, and to trials before such Court, and to sentences by such Court, and to the carrying into execution of such sentences.

Parts of Act VIII of 1859 suspended in High Court.

High Court to record its judgments and orders as it shal by rule direct.

XVIII. The operation of the following Sections of Act No. VIII of 1859, namely, Sections 184, 185, 186 and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the same Act as extends the provisions of the same Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the High Court; and the High Court, and every Division Court and Judge thereof, shall record their and his judgments and the orders passed by them and him respectively in such manner as the High Court shall by any general rule or rules from time to time direct.

Court may fix time for appealing from judgments, &c., of its own Judges or Division Courts.

XIX. The High Court may by its own rules fix the time within which appeals from or applications for review of any judgments orders or decrees made by any Division Court, or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction, shall be preferred.

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution or costs may issue subsequently when their amount is ascertained.

XX. Whenever it shall appear necessary to a Judge of the High Court that a decree made in the exercise of the original Civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith except as to so much thereof as relates to the costs, and, as to so much thereof as relates to the costs, that the same may be executed as soon as the amount of the costs shall be ascertained by taxation. The High Court may appoint the Registrar to be Taxing Officer.

Court in the exercise of its original Civil jurisdiction may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney.

Proviso.

XXI. Whenever anything is directed by the said Act No. VIII of 1859 to be done by or through a Pleader, the High Court, or any Judge thereof in the exercise of its original Civil jurisdiction, may authorize such act to be done by or through an Attorney-at-law of the High Court: Provided that no Attorney shall be authorized under the provisions of this Section to plead in the High Court or in any Division Court for any other person.

Testamentary and Intestate Procedure.

XXII. The procedure in all cases which shall be brought before the High Court in the exercise of its original Testamentary and Intestate jurisdiction shall be regulated as far as the circumstances of the case will admit by the rules of procedure laid down in the Indian Succession Act, 1865, whether the Act itself applies to the case or not, and in cases to which such rules are inapplicable the procedure shall be regulated by the Code of Civil Procedure.

Short title.

XXIII. This Act shall be called "The High Court (North Western Provinces) Act, 1866."

ACT No. XXV. OF 1866.*

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 11th July 1866).

An Act to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Administrator General of Bengal.

1. Monies deposited in High Courts and Supreme Court Straits' Settlement and unclaimed for twenty years, to be transferred to Government.

2. Proceeds of estates administered under order of Supreme Court Straits' Settlement, or in charge of Administrator General of Bengal, and unclaimed for fifteen years, to be transferred to Government.

3. Transfer not to be made pending suits.

4. Repayment on subsequent establishment of claim.

Preamble.

WHEREAS it is expedient that certain securities and sums of money deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits' Settlement, in the course of suits in the said Courts or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the general purposes of Government: And whereas it is also expedient that the net proceeds of all estates administered under the orders of the said Supreme Court of the Straits' Settlement, or in the official charge of the Administrator General of Bengal, and now or hereafter appearing from the official books and accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the purposes aforesaid; It is hereby enacted as follows :—

Monies deposited in High Courts and Supreme Court Straits' Settlement, and unclaimed for twenty years, to be transferred to Government.

I. All securities and sums of money deposited in the said High Courts or Supreme Court of the Straits' Settlement, or any of them, in the course of suits in any of the said Courts or of the late Supreme Courts of Calcutta, Madras and Bombay, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to the Government of India for the general purposes of Government.

Proceeds of estates administered under order of Supreme Court Straits' Settlement, or in charge of Administrator General of Bengal, and unclaimed for fifteen years, to be transferred to Government.

II. The net proceeds of all estates administered under the orders of the said Supreme Court of the Straits' Settlement, or in the official charge of the Administrator General of Bengal, and now or hereafter appearing from the official books and accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to the Government of Inda for the general purposes of Government.

Transfer not to be made pending suits.

III. Nothing in this Act shall authorize any transfer or payment of any such securities, sums of money or proceeds as aforesaid, pending any suit already instituted or which shall hereafter be instituted in respect thereof.

Repayment on subsequent establishment of claim.

IV. If any claim shall hereafter be made to any part of the securities, monies or proceeds which shall be transferred and paid to the Government of India under the provisions of this Act, and if such claim shall, in the case of securities and monies transferred and paid under the first Section of this Act, be established to the satisfaction of the High Court or Supreme Court, as the case may be, from which the transfer shall have been made, and, in the case of proceeds transferred and paid under the second Section of this Act by order of the Supreme Court of the Straits' Settlement, be established to the satisfaction of the same Court, and, in the case of proceeds transferred and paid under the same Section by the Administrator General of Bengal for the time being, be established to the satisfaction of the said Administrator General and the Accountant General to the Government of Bengal respectively, the Government of India shall pay to the claimant the amount of the principal so transferred and paid as aforesaid, or so much thereof as shall appear to be due to the claimant. If any such last-mentioned claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the High

* So much of this Act as relates to the Administrator General of Bengal is repealed by XXIV. 1867.

Court of Judicature at Fort William, on its original side, against the Government of India and the Administrator General of Bengal for the time being, and after taking evidence, either orally or on affidavit in a summary way, as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the principal sum as justice shall require, and such order shall be binding on all parties to the suit.

ACT No. XXVI. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th October 1866.)

An Act to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that Province.

1. Rules as to sub-settlements contained in the Schedule to have the force of law.

2. Repealed.

3. Short title.

WHEREAS rules have been made by the Chief Commissioner of Oudh for the better determination of certain claims by persons possessed of subordinate rights of property in the territories subject to his administration; and whereas it is expedient that such rules should have the force of law; It is hereby enacted as follows:— **Preamble.**

I. The rules for determining the conditions under which persons possessed of subordinate rights of property in taluqas in the territories subject to the administration of the Chief Commissioner of Oudh shall be entitled to obtain a sub-settlement of lands, villages or sub-divisions thereof, which they held under Tâluqdars on or before the thirteenth day of February 1856, and for determining the amounts payable to the Tâluqdar by such subordinate proprietors, which rules were made by the said Chief Commissioner, sanctioned by the Governor General in India in Council, and published in the *Gazette of India* for September 1st, 1866, and which are re-published in the Schedule to this Act, are hereby declared to have the force of law. **Rules as to sub-settlements contained in the Schedule to have the force of law.**

II. Repealed by Act XIV. of 1870.

III. This Act may be called "The Oudh Sub-Settlement Act, 1866." **Short title.**

SCHEDULE.

Rules regarding sub-settlements and other subordinate rights of property in Oudh.

1. The extension of the term of limitation for the hearing of claims to under-proprietary rights in land, makes of itself no alteration in the principles hitherto observed in the recognition of a right to sub-settlement.

2. When no rights are proved to have been exercised or enjoyed by an under proprietor during the period of limitation, beyond the possession of certain lands as *seer* or *nankar*, no sub-settlement can be made; but the claimant will be entitled in accordance with the rules contained in the circular orders which have hitherto been in force in Oudh upon this subject, to the recognition of a proprietary right in such lands. To entitle a claimant to obtain a sub-settlement, he must show that he possesses an under-proprietary right in the lands of which the sub-settlement is claimed, and that such right has been kept alive, over the whole area claimed, within the period of limitation. He must also show that he, either by himself or by some other person or persons from whom he has inherited, has, by virtue of his under-proprietary right, and not merely through privilege granted on account of service, or by favour of the Talookdar, held such lands under contract (*pucka*,) with some degree of continuousness, since the village came into the Talooka.

3. The words "some degree of continuousness" will be interpreted as follows:—

If the village was included in the talooka before the 13th February 1836, the lease must have been held for not less than twelve years between that date

and the annexation of the province. If the village was included in the talooka after the 13th February 1836, but before the 13th February 1844, the lease must have been held for not less than one year more tha half the period between the time in which the village was so included and the annexation of the province. Further, the lease must, in all cases, have been held for not less than seven years during the term of limitation, unless the village was included for the first time in the talooka after the 13th February 1844, in which case the lease must have been held for not less than one year more than half of the period between the time in which the village was so included and the annexation of the province. Provided that, if, for any reason, the Talookdar was, for any period, dispossessed of the village, and the under-proprietor was dispossessed from the lease during the same period, the term of such dispossession shall not be reckoned against the under-proprietor. Provided also, that nothing in this rule will apply to any village which was included for the first time in the talooka after the 13th February 1844, and in which the under-proprietor has held no lease for any period under the Talookdar.

4. If an under-proprietor, who is entitled to a sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold, in perpetuity, the lease or the lands to the sub-settlement of which he is entitled, at a uniform (*istimrarree*) rate of payment, and that such agreement has been acted on within the period of limitation, he will not be liable to payment at an increased rate during the currency of the present or revised settlement. If, in consequence of any future re-adjustment of the Government demand, the former proportion between the respective shares of the profits derived from the land by the under-proprietor and the Talookdar should be altered, the amount payable by the under-proprietor to the Talook lar will be liable to re-adjustment, so that the proportion between their respective shares of the profits may remain unaltered.

5. If an under-proprietor, entitled to sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold the lease of the lands to the sub-settlement of which he is entitled, on payment of the Government demand imposed before the annexation of the province on such lands, with the addition only of certain dues to the Talookdar, or other charges, and such agreement has been acted upon within the period of limitation, such under-proprietor will in future be liable only for the payment to the Talookdar of the Government demand for the time being, with the addition of ten per cent. in lieu of Talookdaree dues and other charges.

6. If an under-proprietor, entitled to sub-settlement, has held the lease of the lands to the sub settlement of which he is entitled, under an agreement that he shall pay to the Talookdar a certain share or proportion of the profits or produce of such lands, and such agreement has been acted upon within the term of limitation, the under-proprietor will in future continue to be liable for the payment to the Talookdar of such share or proportion.

7. In all cases in which an under-proprietor is entitled to a sub-settlement other than those described in Rules 4 to 6, the amount payable by the under-proprietor to the Talookdar will be determined according to the following principles:—

1st.—The payments made by the under-proprietor to the Talookdar before annexation, will form the standard by which the present payments are to be regulated.

2nd.—In no case can the amount payable by the under-proprietor to the Talookdar, during the currency of the settlement, exceed the gross rental of the village, less ten per cent. in *seer* or *nankar* land.

3rd.—In no case can the amount payable during the currency of the settlement by the under-proprietor to the Talookdar, be less than the amount of the revised Government demand, with the addition of ten per cent.

4th—.If the gross rental of the village before annexation and at the present time be approximately the same, the under-proprietor will pay to the Talookdar the same amount which he paid before annexation.

5th.—If the present gross rental of the village exceed or fall short of the former gross rental, the payment of the under-proprietor to the Talookdar will be adjusted according to the following rule, *viz*, as the former gross rental is to the former payment of the under-proprietor, so is the present gross rental to the present payment of the under-proprietor.

6th.—In determining the amount payable by the under-proprietor to the Talookdar under the two last preceding rules, the former gross rental and the former payment of the under-proprietor will be held to be the average amount of the gross rental, and the average amount of the former payments of the under-proprietor for the twelve years preceding annexation, or for such portion of that time

as the under-proprietor held a lease of the village from the Talookdar or for such portion of that time as the necessary information may be obtained.

8. In any case in which the clear share of the profit to which the under-proprietor is entitled under the rules contained in the last preceding paragraph does not exceed twelve per cent. of the gross rental, no sub-settlement shall be made. In this case the under-proprietor will retain all *seer* and *nankar* land to which his right is established. If the profits derived from such land be less than one-tenth of the whole rental of the land to the sub-settlement of which the right was established, the Talookdar shall increase the amount of such land so that the total profit to the under-proprietor shall not fall below one-tenth of the gross rental. The under-proprietor will possess, in the whole of such land, a transferable and heritable right of property.

9. In any case in which an under-proprietor is entitled to a sub-settlement under the preceding rules, and in which the share of the gross rental which such under-proprietor is entitled to receive exceeds twelve per cent., but falls short of twenty-five per cent., such share will be increased so that it shall not be less than twenty-five per cent. of he gross rental. The cost of such increase will be borne half by the Government and half by the Talookdar. In this case, the cesses on account of roads, schools, &c., amounting to two and a half per cent. on the Government demand, will be payable by the Talookdar while the village expenses, including the allowances to the Putwaree and Chowkeedar, will be payable by the under-proprietor.

10. When a former proprietor, who is not entitled to a sub-settlement has retained within the period of limitation, either by himself or by some other person or persons from whom he has inherited, possession of land which by virtue of his proprietary right he held as *seer* or *nankar* when he was in proprietary possession, he will be deemed in respect of such land to be an under-proprietor, and will possess a heritable and transferable right of property therein, subject to the payment of such amount as may be due by him to the superior proprietor.

11. If, in any case, the founder of a *Poorwa* or hamlet, who is unable to establish a right to sub-settlement, can show that, in consideration of having founded such *Poorwa* or hamlet, he has held therein, within the period of limitation, possession of *seer* or *nankar* land, he will be recognized as an under-proprietor in such land, subject to the payment of such amount as may be due by him to the Talookdar. The amount of such payment will be determined according to the rules for determining the amount of the payments due by other under-proprietors on their *seer* or *nankar* lands.

12. Claims to proprietary and under-proprietary rights in *jagheers* will be treated according to the same rules which are applicable to similar claims in talookas.

13. Cases in which claims to under-proprietary rights have been disposed of otherwise than in accordance with these rules will be open to revision, but this rule will not apply to cases disposed of by arbitration or by agreement of the parties

J. STRACHEY,
Chief Commissioner of Oudh.

SIMLA,
The 20th August 1866.

THE INDIAN TRUSTEE ACT, 1866.

ARRANGEMENT OF SECTIONS.

1. *Acts repealed.*
2. *Interpretation.*
3. *The High Court to have jurisdiction in what cases.*
4. *High Court may convey estates of lunatic Trustees and Mortgagees.*
5. *And may convey contingent rights.*
6. *High Court may transfer stock or Government securities of lunatic Trustees and Mortgagees.*
7. *Power to transfer stock or Government securities of deceased persons.*
8. *High Court may convey estates of minor Trustees and Mortgagees.*

9. Contingent rights of minor Trustees and mortgagees.
10. High Court may convey the estate of a Trustee out of the jurisdiction of the Court.
11. High Court may make order in cases where persons hold immoveable property in trust jointly with persons out of jurisdiction of Court, &c.
12. Contingent rights of Trustees.
13. High Court may make order in cases where persons are jointly entitled with others out of jurisdiction of the Court to a contingent right in immoveable property.
14. When it is uncertain which of several Trustees was the survivor.
15. When it is uncertain whether the last Trustee be living or dead.
16. When Trustee dies without an heir.
17. Contingent right of unborn Trustee.
18. Power to make an order for vesting the estate on refusal or neglect of a Trustee to convey or release.
19. Power to convey in place of Mortagagee.
20. Power to appoint a person to convey in certain cases.
21. When Trustee of stock or Government securities out of the jurisdiction.
22. When Trustee of stock, &c., refuses to transfer.
23. When one of several Trustees of stock, &c., refuses to transfer or receive and pay over dividends
24. When stock, &c., is standing in the name of a deceased person.
25. Effect of an order vesting the legal right to transfer stock, &c.
26. Effect of an order vesting legal right in a thing in action.
27. On neglect to transfer stock, &c., for 28 days, order may be made vesting right to transfer in such person as the Court shall appoint.
28. On like neglect by executor, similar order may be made.
29. Companies and Associations to comply with such orders.
30. Power to make an order for the transfer or receipt of dividends of stock, &c., in name of a minor Trustee.
31. When a decree is made for sale of immoveable property for payment of debts.
32. High Court may make an order for vesting the estate in lieu of conveyance ce by a party to the suit after a decree or order for sale.
33. Court to declare what parties are Trustees of immoveable property comprized in any suit, and as to the interests of persons unborn.
34. Power to make directions how the right to transfer stock shall be exercised.
35. Power to Court to make order appointing new Trustees. New Trustees to have powers of Trustees appointed by decree in suit.
36. Power to Court to vest immoveable property in new Trustee.
37. Power to Court to test right to sue in new Trustees.
38. Old Trustees not to be discharged from liability.
39. Who may apply.
40. Application may be by petition.
41. What may be done upon petition.
42. Court may dismiss petition with or without costs.
43. Power to make an order in a cause.
44. Orders made by the High Court founded on certain allegations to be conclusive evidence of the matter contained in such allegations.
45. Trustees of charity.
46. Money of minors and persons of unsound mind to be paid into Court.
47. Court may make a decree in the absence of a Trustee.
48. Orders made under this Act to be chargeable with the same stamp duty as deeds of conveyance.
49. Costs may be paid out of the estate.
50. Enquiry concerning person of unsound mind.
51. Suit may be directed.
52. Indemnity to all persons obeying orders passed under this Act.
53. Orders under the Act to be executed as, and have the effect of, decrees.
54. Short Title.
55. From 1st February 1867, this Act to apply to Straits' Settlement.

ACT No. XXVII. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th October 1866.)

An Act to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the conveyance and transfer of moveable and immoveable property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable; It is hereby enacted as follows :—

Acts repealed.

I. Section 3 of Act XXIV of 1841 (*for the greater uniformity of the law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the effects of Testators; illusory appointments; the transfer of estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons, and other like matters*), and so much of Act No. XIV of 1852 (*for extending the provisions of Acts XXIV of* 1841 *and XVII of* 1843 *to the Strait's Settlement*) as extends the provisions of the said Section to the Settlement of Prince of Wales' Island, Singapore and Malacca, are hereby repealed : Provided that all proceedings under the said Section or Act commenced before this Act comes into operation, may be proceeded with under the said Section or Act or according to the provisions of this Act, as shall be thought expedient by the person by whom they were commenced.

Interpretation.

II. In this Act, unless there be something repugnant in the subject or context—

"Immoveable property."

"Immoveable property" shall extend to and include messuages, tenements, and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein :

"Stock."

"Stock" shall mean any fund, annuity or security transferable in books kept by any Company or Society established or to be establised, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein. It shall also include shares in ships registerd under the Merchant Shipping Act, 1854, or at any port in British India :

"Hold" and "Holding."

"Hold" and "Holding" shall be applicable to any vested estate, whether for life or of a greater or less description, in possession, futurity or expectancy, in any immoveable property :

"Contingent right."

"Contingent right" as applied to immoveable property shall mean a contingent or executory interest, or possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained ; also a right of entry, whether immediate or future, and whether vested or contingent :

"Convey." "Conveyance."

"Convey" and "Conveyance" applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another immoveable property which such person holds, or in which he is entitled to a contingent right either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of Act XXXI of 1854 (*to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English law is applicable*) :

"Transfer."

"Transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock or Government securities can transfer such stock or Government securities from himself to another :

"High Court."

"High Court" shall mean every Court now or hereafter established under the Statute 24 & 25 Vic., cap. 104, and also the Chief Court of the Punjab, or such one or more Judges of the said Courts respectively as shall be appointed by the Chief Justice or the Senior Judge, as the case may be, to entertain applications and make orders under this Act :

"Trust." "Trustee."

"Trust" shall not mean the duties incident to an estate conveyed by way of mortgage; but with this exception, the words "Trust" and "Trustee" shall extend to and include implied and constructive trusts, and shall extend to and include cases where the Trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of executor or administrator of a deceased person :

"Lunatic."

"Lunatic" shall mean any person who shall have been found by due course of law to be of unsound mind and incapable of managing his affairs:

"Person of unsound mind."

"Person of unsound mind" shall mean any person not a minor who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs.

"Heir" and "Devisee."

In the case of a will made or an intestacy occuring before the first day of January 1866, "Heir" shall mean the person claiming an interest in the immoveable property of a deceased person under the laws concerning descent applicable to such property; and "Devisee" shall in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the immoveable property of a deceased person, not as heir of such deceased person but by a title dependent solely upon the operation of the laws concerning devise and descent:

In the case of a will made or an intestacy occurring on or after the first day of January 1866, "Heir" shall mean any person claiming an interest in the immoveable property of a deceased person under the rules for the distribution of an intestate's estate; and "Devisee" shall mean any person taking immoveable property under a bequest, and any person, other than an executor or administrator, claiming an interest in immoveable property, not as entitled thereto under the said rules, but by a title dependent solely upon the operation of the laws concerning intestate and testamentary succession:

"Mortgage."

"Mortgage" shall be applicable to every estate or interest in immoveable or moveable property which would in the High Court be deemed merely a security for money:

"Person."

"Person" shall include any Company or Association, or body of persons whether incorporated or not:

Number Gender.

Words importing the singular number only shall extend to several persons or things: words importing the plural number shall apply to one person or thing; words importing the masculine gender shall extend to a female.

The High Court to have jurisdiction in what cases.

III. The powers and authorities given by this Act to the High Courts shall and may be exercised only in cases to which English law is applicable, and may be exercised with respect to property within the local limits of the extraordinary original Civil jurisdiction of the said Courts respectively.

High Court may convey estates of lunatic Trustees and Mortgagees;

IV. When any lunatic or person of unsound mind shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order that such property be vested in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a conveyance of the property in the same manner for the same estate.

And may convey contingent rights.

V. When any lunatic or person of unsound mind shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said High Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

High Court may transfer stock or Government securities of lunatic Trustees and Mortgagees.

VI. When any lunatic or person of unsound mind shall be solely entitled to any stock or Government securities, or to any thing in action upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof: and when any persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or Government securities or thing in action upon any trust or by way of mortgage, it shall be lawful for the said Court to mak an order vesting the right to transfer such stock or Government securities, or to receive the dividends, intert est or income thereof, or to sue for and recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons the said High Court may appoint.

Power to transfer stock or Government securities of deceased persons.

VII. When any stock or Government securities shall be standing in the name of any deceased person whose executor or adminstrator is a lunatic or person of nnsound mind, or when any thing in action shall be vested in any lunatic or person of unsound mind as the executor or administrator of a deceased person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

VIII. Where any minor shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful, for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, and the order shall have the same effect as if the minor Trustee or Mortgagee had attained his majority, and had duly executed a conveyance of the property in the same manner for the same estate.

High Court may convey estates of minor Trustees and Mortgagees.

IX. Where any minor shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the minor had attained his majority, and had duly executed a deed so releasing or disposing of the contingent right.

Contingent rights of minor Trustees and Mortgagees.

X. When any person solely holding any immoveable property upon any trus shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, and the order shall have the same effect as if the Trustee had duly executed a conveyance of the property in the same manner and for the same estate.

High Court may convey the estate of a Trustee out of the jurisdiction of the Court.

XI. When any person or persons shall hold any immoveable property in trust jointly with a person not within the jurisdiction of the High Court, or who cannot be found, it shall be lawful for the said Court to make an order vesting the property in the person or persons so jointly holding, or in such last-mentioned person or persons together with any other person or persons, in such manner and for such estate as the said Court shall direct: and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance of the property in the same manner for the same estate.

High Court may make order in cases where persons hold immoveable property in trust jointly with persons out of jurisdiction of Court, &c.

XII. When any person solely entitled to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the Trustee had duly executed a conveyance so releasing or disposing of the contingent right.

Contingent rights of Trustees.

XIII. When any person jointly entitled with any other person or persons to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to such last-mentioned person or persons together with any other person or persons; and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

High Court may make order in cases where persons are jointly entitled with others out of the jurisdiction of the Court to a contingent right in immoveable property.

XIV. Where there shall have been two or more persons jointly holding any immoveable property upon any trust, and it shall be uncertain which of such Trustees was the survivor, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the survivor of such Trustees had duly executed a conveyance of the property in the same manner for the same estate.

When it is uncertain which of several Trustees was the survivor.

XV. Where any one or more person or persons shall have held any immoveable property upon any trust, and it shall not be known, as to the Trustee last known to have held such property, whether he be living or dead, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the last Trustee had duly executed a conveyance of the property in the same manner for the same estate.

When it is uncertain whether the last Trustee be living or dead.

XVI. When any person holding any immoveable property upon any trust shall have died intestate as to such property without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the heir or devisee of such Trustee had duly executed a conveyance of the property in the same manner for the same estate.

When Trustee dies without an heir.

XVII. When any immoveable property is subject to a contingent right in an unborn person, or class of unborn persons who, upon coming into existence, would in respect thereof hold such property upon any trust, it shall be lawful for the High

Contingent right of unborn Trustee.

Court to make an order which shall wholly release and discharge such property from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates, which such unborn person or class of unborn persons, would, upon coming into existence, hold in such property.

Power to make an order for vesting the estate on refusal or neglect to a Trustee to convey or release.

XVIII. In every case where any person holds or shall hold jointly or solely any moveable property, or is or shall be entitled to a contingent right therein upon any trust, and a demand shall have been made upon such Trustee by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, requiring such Trustee to convey the same, or to release such contingent right, it shall be lawful for the High Court, if the said Court shall be satisfied that such Trustee has wilfully refused or neglected to convey the said property for the space of twenty-eight days after such demand, to make an order vesting such property in such person or persons, in such manner and for such estate as the Court shall direct, or releasing such contingent right in such manner as the Court shall direct; and the said order shall have the same effect as if the Trustee had duly executed a conveyance of the property or a release of such right, in the same manner and for the same estate.

Power to convey in place of Mortgagee.

XIX. When any person to whom any immoveable property has been conveyed by way of mortgage, shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the reconveyance or vesting of such property, then in any of the following cases, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, that is to say,—

When an heir or devisee of such mortgagee shall be out of the Jurisdiction of the High Court, or cannot be found:

When an heir or devisee of such mortgagee shall, upon a demand by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person have, stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such property shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last-mentioned person:

When it shall be uncertain which of several devisees of such mortgagee was the survivor:

When it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee whether he be living or dead:

When such mortgagee shall have died intestate as to such property and without an heir, or shall have died, and it shall not be known who is his heir or devisee:

And the order of the said High Court made in any one of the foregoing cases, shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance of the property in the same manner and for the same estate.

Power to appoint a person to convey in certain cases.

XX. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance of any immoveable property, or having the effect of a release or disposition of the contingent right of any person or persons, born or unborn, it shall also be lawful for the High Court, should it be deemed more convenient, to make an order appointing a person to convey such property or release or dispose of such contingent right; and the conveyance, or release or disposition of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying the property, or releasing or disposing of the contingent right, as an order of the High Court would in the particular case have had under the provisons of this Act. In every case where the High Court shall, under the provisions of this Act. be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the books of any Company or Society established or to be established, it shall also be lawful for the High Court, if it be deemed more convenient, to make an order directing the Secretary or any Officer of such Company or Society at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full and complete indemnity and discharge to all Companies or Societies and their officers and servants for all acts done or permitted to be done pursuant thereto.

XXI. When any person or persons shall be jointly entitled with any person out of the jurisdiction of the High Court, or who can not be found, or concerning whom it shall be uncertain whether he be living or dead, to any stock or Government securities or thing in action upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any person or persons the said Court may appoint. When any sole Trustee of any stock, Government securities, or thing in action shall be out of the jurisdiction of the said Court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

When Trustees of stock or Government securities out of the jurisdiction.

XXII. Where any sole Trustee of any stock, Government securities or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action, or any interest in respect thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the High Court to make an order vesting the sole right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

When Trustee of stock, &c., refuses to transfer.

XXIII. Where any one of the Trustees of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by such person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, in the other Trustee or Trustees of the said stock, Government securities, or thing in action, or in any person or persons whom the said Court may appoint jointly with such other Trustee or Trustees.

When one of several Trustees of stock, &c., refuses to transfer or receive and pay over dividends.

XXIV. When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall be out of the jurisdiction of the High Court, or cannot be found, or it shall be uncertain whether such executor or administrator be living or dead, or such executor or administrator shall neglect or refuse to transfer such stock or Government securities, or receive the dividends, interest or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

When stock, &c., is standing in the name of a deceased person.

XXV. Where any order shall have been made under this Act vesting the right to any stock or Government securities, in any person or persons appointed by the High Court, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock and Government securities into his or their own name or names or otherwise, or relating to the receipt of the dividends, interest or income thereof, to the extent and in conformity with the terms of such order. All Companies and Associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such Companies, Associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made. After notice in writing of any such order of the High Court concerning any stock or Government securities shall have been given, it shall not be lawful for any Company or Association, or any person having received such notice, to act upon the requisition of the person in

Effect of an order vesting the legal right to transfer stock, etc.

whose place an appointment shall have been made, in any matter relating to the transfer of such stock or Government securities, or the payment of the dividends, interest or income thereof.

Effect of an order vesting legal right in a thing in action.

XXVI. Where any order shall have been made under this Act by the High Court vesting the legal right to sue for or recover any thing in action, or any interest in respect thereof, in any person or persons, such legal right shall vest accordingly; and thereupon it shall be lawful for the person or persons so appointed to carry on, commence and prosecute, in his or their own name or names, any suit or other proceeding for the recovery of such thing in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such thing in action.

On neglect to transfer stock, etc., for twenty-eight days, order may be made vesting right to transfer in such person as the Court shall appoint.

XXVII. Where any person shall neglect or refuse to transfer any stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action, or any interest in respect thereof, for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting all the right of such person to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

On like neglect by executor, similar order may be made.

XXVIII. When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall refuse or neglect to transfer such stock or Government securities, or receive the dividends, interest or income thereof for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Companies and Associations to comply with such orders.

XXIX. When any order being or purporting to be under this Act shall be made by the High Court, vesting the right to any stock or Government securities, or vesting the right to transfer any stock or Government securities, or vesting the right to call for the transfer of any stock or Government securities in any person or persons, in every such case the legal right to transfer such stock or Government securities shall vest accordingly; and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock or Government securities into his or their own name or names or otherwise, to the extend and in conformity with the terms of the order. All Companies and Associations, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such Companies, Associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Power to make an order for the transfer or receipt of dividends of stock, etc., in name of a minor Trustee.

XXX. When any minor shall be solely entitled to any stock or Government securities upon any trust, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof. When any minor shall be entitled jointly with any other person or persons to any stock or Government securities upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, either in the person or persons jointly entitled with the minor, or in him or them together with any other person or persons the said Court may appoint.

When a decree is made for sale of immoveable property for payment of debts.

XXXI. When a decree or order shall have been made by the High Court directing the sale of any immoveable property for the payment of the debts of a deceased person, every person holding such property, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act: and the High Court is hereby empowered to make an order wholly discharging the contingent right under the will of such deceased debtor of any unborn person.

High Court may make an order for vesting the estate in lieu of conveyance by a party to the suit after a decree or order for sale.

XXXII. When any decree or order shall have been made by the High Court, whether before or after the passing of this Act, directing the sale of any immoveable property for any purpose whatever, every person holding such property, or entitled to a contingent right therein, being a party to the suit or proceeding in which such decree or order shall have been made and bound thereby, or being otherwise bound by such decree or order, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act. In every such case, it shall be lawful for the High Court, if the said Court shall think it expedient

for the purpose of carrying such sale into effect, to make an order vesting such property or any part thereof, for such estate as the Court shall think fit, either in any purchaser or in such other person as the Court shall direct. Every such order shall have the same effect as if the person so holding or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such property for such estate.

Court to declare what parties are Trustees of immoveable property comprised in any suit, and as to the interests of persons unborn.

XXXIII. Where any decree or order shall be made by the High Court for the specific performance of a contract concerning any immoveable property, or for the partition or exchange of any immoveable property, or generally when any decree shall be made for the conveyance of any immoveable property, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are Trustees of such property or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his life-time a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons who, upon coming into existence, would be Trustees within the meaning of this Act. Thereupon it shall be lawful for the High Court to make such order or orders as to the estates, rights and interests of such persons, born or unborn, as the said Court might, under the provisions of this Act, make concerning the estates, rights and interests of Trustees born or unborn.

Power to make directions how the right to transfer stock shall be exercised.

XXXIV. It shall be lawful for the High Court to make declarations and give directions concerning the manner in which the right to any stock, Government securities or thing in action vested under the provisions of this Act shall be exercised, and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Act are enforced.

Power to Court to make order appointing new Trustees.

New Trustees to have powers of Trustees appointed by decree in suit.

XXXV. In all cases in which it shall be expedient to appoint a new Trustee or new Trustees, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the High Court, it shall be lawful for the said Court to make an order appointing a new Trustee or new Trustees, whether there be any existing Trustee or Trustees or not at the time of making such order, and if there be such Trustee or Trustees, either in substitution for or in addition to him or them. The person or persons who, upon the making of such order shall be Trustee or Trustees, shall have the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

Power to Court to vest immoveable property in new Trustee.

XXXVI. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to direct that any immoveable property subject to the trust shall vest in the person or persons who upon the appointment shall be the Trustee or Trustees, for such estate as the Court shall direct. Such order shall have the same effect as if the person or persons who, before such order, was or were the Trustee or Trustees (if any) had duly executed all proper conveyances of such property for such estate.

Power to Court to vest right to sue in new Trustees.

XXXVII. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock or Government securities subject to the trust, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action subject to the trust, or any interest in respect thereof, in the person or persons who upon the appointment shall be the Trustee or Trustees.

Old Trustees not to be discharged from liability.

XXXVIII. Any such appointment by the High Court of new Trustees, and any such conveyance or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing Trustee, than an appointment of new Trustees under any power for that purpose contained in any instrument would have done.

Who may apply.

XXXIX. An order under any of the hereinbefore contained provisions, for the appointment of a new Trustee or new Trustees, or concerning any immoveable property, stock or Government securities, or thing in action subject to a trust, may be made upon the application of any person beneficially interested in such immoveable property, stock, Government securities, or thing in action, whether under disability or not, or upon the application of any person duly appointed as a Trustee thereof; and an order under any of the provisions hereinbefore contained, concerning any immoveable property, stock, Government securities, or thing in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the monies secured by such mortgage.

Application may be by petition.

XL. When any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, it shall be lawful for him to present a petition to the High Court for such order as he may deem himself entitled to, and he may give evidence by affidavit or otherwise in support of such petition before the said Court, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

What may be done upon petition.

XLI. Upon the hearing of any such petition, it shall be lawful for the said High Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the said Court to direct such petition to stand over, to enable the petitioner to adduce evidence or further evidence before the Court, or to enable notice or any further notice of such petition to be served upon any person or persons.

Court may dismiss petition with or without costs.

XLII. Upon the hereing of any such petition, it shall be lawful for the High Court to dismiss such petition with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

Power to make order in a cause.

XLIII. Whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by report of one of the Judges of the Court, the facts necessary for an order under this Act shall appear to the High Court to be sufficiently proved, it shall be lawful for the said Court, either upon the hearing of the said cause or of any petition or application in the said cause or matter, to make such order under this Act.

Orders made by the High Court founded on certain allegations to be conclusive evidence of the matter contained in such allegations.

XLIV. Whenever any order shall be made under this Act by the High Court for the purpose of conveying any immoveable property, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a Trustee or Mortgagee, or on an allegation that a Trustee or the heir or devisee of a Mortgagee is out of the jurisdiction of the High Court, or cannot be found, or that it is uncertain which of several Trustees, or which of several devisees of a Mortgagee, was the survivor, or whether the last Trustee, or the heir, or last surviving devisee of a Mortgagee, be living or dead, or on an allegation that any Trustee or Mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then in any of such cases the fact that the High Court has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any Court of Civil Judicature upon any question as to the legal validity of the order: Provided always, that nothing herein contained shall prevent the High Court directing a re-conveyance of any immoveable property conveyed or assigned by any order under this Act, or a re-disposition of any contingent right conveyed or disposed of by such order; and it shall be lawful for the said Court to direct any of the parties to any suit concerning such property or contingent right, to pay any costs occasioned by the order under this Act, when the same shall appear to have been improperly obtained.

Trustees of charity.

XLV. It shall be lawful for the High Court to exercise the powers herein conferred for the purpose of vesting any immoveable property, stock, Government securities, or thing in action in the Trustee or Trustees of any charity or society, over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such Trustee or Trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

Money of minors and persons of unsound mind to be paid into Court.

XLVI. Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities, or thing in action conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court, in trust in any cause then depending concerning such money, or if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court; and it shall be lawful for the said Court, upon petition in a summary way, to order any money so paid to be invested in Government securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof, as to the said Court shall seem reasonable.

Court may make a decree in the absence of a Trustee.

XLVII. Where in any suit commenced or to be commenced in the High Court it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a Trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a Trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such Trustee had been duly served with the process of

the Court, and had appeared at the hearing of such cause: Provided always, that no such decree shall bind, affect, or in any wise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors, or administrators for or in respect of any estate right or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a Trustee as aforesaid.

Orders made under this Act to be chargeable with the same stamp duty as deeds of conveyance.

XLVIII. Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities, or thing in action as can only be transferred by stamped deed, or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities, or thing in action. Every such order shall be duly stamped for denoting the payment of the said duty.

Costs may be paid out of the estate.

XLIX. The High Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the immoveable or moveable property, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper.

Enquiry concerning person of unsound mind.

L. Upon any petition being presented under this Act to the High Court concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of unsound mind, and capable of managing himself and his affairs. Such order shall have the same effect as the like order made under Section 1 of Act XXXIV of 1858 (*to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*), and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making an enquiry under the last-mentioned Act. The High Court may postpone making any order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded.

Suit may be directed.

LI. Upon any petition under this Act being presented to the High Court, it shall be lawful for the said Court to postpone making any order upon such petition, until the right of the petitioner shall have been declared in a suit duly instituted for that purpose.

Indemnity to all persons obeying orders passed under this Act.

LII. Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsoever for any Act done pursuant thereto; and it shall not be necessary for such persons to enquire concerning the propriety of such order, or whether the High Court has jurisdiction to make the same.

Orders under the Act to be executed as, and have the effect of, decrees.

LIII. Any order made by the High Court under this Act shall have the same effect and be executed in the same manner as a decree.

Short Title.

LIV. This Act may be cited as "The Indian Trustee Act, 1866."

From 1st February 1867, this Act to apply to Straits' Settlement.

LV. On and after the first day of February 1867 (but not till then), the power and authorites given by this Act to the High Courts, shall and may be exercised by the Court of Judicature of the settlement of Prince of Wales' Island, Singapore and Malacca, with respect to moveable and immoveable property within the local limits of the jurisdiction of that Court; and, in the said Settlement, Section 2 of this Act shall be read as if the words and figures "first day of February 1867" were substituted for the words and figures "first day of January 1866."

THE TRUSTEES AND MORTGAGEES' POWERS' ACT, 1866.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Interpretation of terms.

Powers of Trustees for sale, &c., and Trustees of renewable leaseholds.

2. Trustees empowered to sell, may sell in lots, and either by public auction or private contract.

3. Sale may be made under special conditions, and Trustees may buy in, &c.

4. Trustees exercising power of sale, &c., empowered to convey.
5. Money arising from sales, to be laid out in the manner indicated in the will, &c.
Until it is so laid out, money to be invested in Government securities.

Powers of Mortgagees.

6. Powers incident to Mortgagees.
7. Receipts for purchase money sufficient discharges.
8. Notice to be given before sale: but purchaser relieved from inquiry as to circumstances of sale.
9. Application of purchase money.
10. Conveyance to the purchaser.
11. Owner of charge may call for title deeds and conveyance of legal estate.
12. Appointment of Receiver,
13. Receiver deemed to be the agent of the mortgagor.
14. Powers of Receiver.
15. Receiver may be removed.
16. Receiver to receive a commission not exceeding five per cent.
17. Receiver to insure, if required.
18. Application of moneys received by him.
19. This Part to relate to charges by way of mortgage only.

Leases.

20. Restriction on effect of license to alien.
21. Restricted operation of partial licenses.
22. Apportionment of conditions of re-entry in certain cases.

Rent-charges.

23. Release of part of land charged, not to be an extinguishment.

Powers.

24. Mode of execution of powers.
25. Legatee in trust may raise money by sale, notwithstanding want of express power in the will.
26. Powers given by last section extended to survivors, legatees, &c.
27. Executors to have power of raising money, &c,, where there is no sufficient bequest.
28. Purchasers, &c., not bound to enquire as to powers.

Inheritance.

29. Descent how to be traced.

Assignment of Moveables and Terms for years.

30. Assignment to self and others.

Purchasers.

31. Not to be bound to see to the application of purchase money, &c.

Investment of Trust Funds.

32. On what securities trust funds may be invested.

Trustees and Executors.

33. Trustees may apply income of property of minors, &c., for their maintenance.
34. Provisions for appointment of new Trustees, on death, &c.
35. Appointment of new Trustee in place of Trustee pre-deceasing testator.
36. Trustees' receipts to be discharges.
37. Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the Trustees.
38. Executors may compound, &c.
39. Trustee, &c., making payment under power of attorney, not to be liable by reason of death of party giving such power.
40. As to liability of executor or administrator in respect of rents, covenants or agreements.
41. As to liability of Executor, &c., in respect of rents, &c., in conveyance on rent-charge.
42. As to distribution of the assets of testator or intestate after notice given by executor and administrator.

43. Trustee, executor, &c., may apply by petition of Judge of High Court for opinion, advice, &c., in management, &c., of trust property.

General Provisions

44. Tenants for life, &c.. may execute powers, notwithstanding incumbrances.
45. Operation of Act.
46. Short title.
47. From 1st February 1867, Act to apply to apply to Straits' Settlement.

ACT No. XXVIII. OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th October 1866.)

An Act to give to Trustees, Mortgagees and others, in cases to which English Law is applicable, certain powers now commonly inserted in Settlements, Mortgages and Wills, and to amend the Law of property and relieve Trustees.

Preamble.

WHEREAS it is expedient that in cases to which English Law is applicable, certain powers and provisions usually inserted in Settlements, Mortgages, Wills and other instruments, should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument, and that in such cases Trustees should be relieved : It is enacted as follows :—

Interpretation of terms.

I. In the construction of this Act, unless there be something repugnant in the subject or context—

"Immoveable property."

" Immoveable Property " shall include land, any benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth :

"Mortgage."

" Mortgage " shall be taken to include every instrument by virtue whereof immoveable property is in any manner conveyed, pledged, or charged as security, for the repayment of money or moneys' worth lent, and to be re-conveyed, or released on satisfaction of the debt :

"Mortgagor."

" Mortgagor" shall be taken to include every person by whom any such conveyance, pledge, or charge as aforesaid shall be made :

"Mortgagee."

" Mortgagee" shall be taken to include every person to whom or in whose favour any such conveyance, pledge or charge as aforesaid is made or transferred : and

"High Court."

" High Court" means any Court established or to be established under Statute 24 & 25 Vic., cap. 104, and includes the Chief Court of the Punjab and the Supreme Court of Judicature of the Settlement of Princes of Wales' Island, Singapore and Malacca.

Powers of Trustees for sale, &c., and Trustees of renewable lease-holds.

Trustees empowered to sell may sell in lots, and either by public auction or private contract.

II. In all cases where, by any will, deed or other instrument of settlement, it is expressly declared that Trustees or other persons therein named or indicated shall have a power of sale, either generally or in any particular event, over any immoveable property named or referred to in, or from time to time subject to, the uses or trusts of such will, deed or other instrument, it shall be lawful for such Trustees or other persons, whether such property be vested in them or not, to exercise such power of sale by selling such property either together or in lots, and either by public auction or private contract, and either at one time or at several times.

Sale may be made under special conditions, and Trustees buy in, etc.

III. It shall be lawful for the persons making any such sale to insert any such special or other stipulations, either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for sale, as they shall think fit ; and also to buy in the property or any part thereof at any sale by auction, and to rescind or vary any contract for sale, and to re-sell the property which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for any loss which may be occasioned thereby ; and no purchaser under any such sale shall be bound to enquire whether the persons making the same may not have in contemplation any particular re-investment of the purchase-money in the purchase of any other property or otherwise.

Trustees exercising power of sale, etc., empowered to convey.

IV. For the purpose of completing any such sale as aforesaid, the persons empowered to sell as aforesaid shall have full power to convey or otherwise dispose of the property in question, in such manner as may be necessary.

Money arising from sales, to be laid out in the manner indicated in the will, etc.

Until it is so laid out, money to be invested in Government securities.

V. The money so received upon any such sale as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed or instrument containing the power of sale; and until the money to be received upon any sale as aforesaid shall be so disposed of, the same shall be invested at interest in Government securities for the benefit of such persons as would be entitled to the benefit of the money, and the interest and profits thereof, in case such money were then actually laid out as aforesaid: Provided that if the will, deed or instrument shall contain no such indication, the persons empowered to sell as aforesaid shall invest the money so received upon any such sale in their names upon Government securities in India, and the interest of such securities shall be paid and applied to such person or persons for such purposes and in such manner as the rents and profits of the property sold as aforesaid would have been payable or applicable in case such sale had not been made.

Powers of Mortagagees.

Powers incident to mortgagees.

VI. Where any principal money is secured or charged by deed on any immoveable property, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators and assigns, shall, at any time after the expiration of one year from the time when such principal money shall have become payable, according to the terms of the deed, or after any interest on such principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which by the terms of the deed ought to be paid by the person entitled to the property subject to the charge, have the following powers to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely :—

1st.—A power to sell or concur with any other person in selling the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and re-sell the property, from time to time, in like manner:

2nd.—A power to appoint or obtain the appointment of Receiver of the rents and profits of the whole or any part of the property in manner hereinafter mentioned.

Receipts for purchase money sufficient discharge.

VII. Receipts for purchase money given by the person or persons exercising the power of sale hereby conferred, shall be sufficient discharges to the purchasers, who shall not be bound to see to the application of such purchase money.

Notice to be given before sale; but purchaser relieved from inquiry as to circumstances of sale.

VIII. No such sale as last aforesaid shall be made until after six months, notice in writing given to the person or one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of such property but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that no such notice as aforesaid had been given; but any person damnified by any such unauthorized exercise of such power, shall have his remedy in damages against the person or persons selling.

Application of purchase money.

IX. The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows:—first, in payment of all the expenses incident to the sale or incurred in any attempted sale; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sole was made; and thirdly, in discharge of all the principal monies then due in respect of such charge; and the residue of such money shall be paid to the person entitled to the property subject to the charge, his executors, administrators or assigns, as the case may be.

Conveyance to the purchaser.

X. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of: Provided that nothing herein contained shall be construed to authorize the mortgagee of a term of years to sell and convey the fee simple of the property comprised therein in cases where the mortgagor could have disposed of such fee simple at the date of the mortgage.

Owner of charge may call for title deds and conveyance of legal estate.

XI. At any time after the power of sale hereby conferred shall have become exerciseable, the person entitled to exercise the same shall be entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed or surrendered to and were then vested in him for all the estate and interest which

the person creating the charge had power to dispose of; and where the legal estate shall be outstanding in a Trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

Appointment of Receiver.

XII. Any person entitled to appoint or obtain the appointment of a Receiver as aforesaid, may from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be Receiver, or if no person be so named, then may, by writing delivered to the person or any one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of the property require such last mentioned person or persons to appoint a fit and proper person as Receiver, and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit. No person shall be ineligible for the Office of Receiver merely because he is an Officer of the High Court.

Receiver deemed to be the agent of the mortgagor.

XIII. Every Receiver appointed as aforesaid shall be deemed to be the agent of the persons entitled to the property subject to the charge, who shall be solely responsible for his acts or defaults, unless otherwise provided for in the charge.

Powers of Receivers.

XIV. Every Receiver appointed as aforesaid shall have power to demand and recover and give effectual receipts for all the rents, issues and profits of the property of which he is appointed Receiver, by suit, distress, or otherwise, in the name either of the person entitled to the property subject to the charge, or of the person entitled to the money secured by the charge to the full extent of the estate or interest which the person who created the charge had power to dispose of.

Receiver may be removed.

XV. Every Receiver appointed as aforesaid may be removed by the like authority, or on the like requisition as before provided with respect to the original appointment of a Receiver, and new Receivers may be appointed from time to time.

Receiver to receive a commission not exceeding five per cent.

XVI. Every Receiver appointed as aforesaid shall be entitled to retain out of any money received by him, in lieu of all costs, charges, and expenses whatsoever, such a commission, not exceeding five *per centum* on the gross amount of all money received, as shall be specified in his appointment, and if no amount shall be so specified, then five *per centum* on such gross amount.

Receiver to insure if required.

XVII. Every Receiver appointed as aforesaid shall, if so directed in writing by the person entitled to the money secured by the charge, insure and keep insured from loss or damage by fire, out of the money received by him, the whole or any part of the property included in the charge which is in its nature insurable.

Application of moneys received by him.

XVIII. Every Receiver appointed as aforesaid shall pay and apply all the money received by him in the first place in discharge of Government revenue and of all taxes, rates and assessments whatsoever, and in payment of his commission as aforesaid, and of the premiums on the insurances, if any; and in the next place in payment of all the interest accruing due in respect of any principal money then charged on the property over which he is Receiver, or on any part thereof; and, subject as aforesaid, shall pay all the residue of such money to the person for the time being entitled to the property subject to the charge, his executors, administrators or assigns.

This Part to relate to charge by way of mortgage only.

XIX. The powers and provisions contained in Sections 6 to 18 of this Act, both inclusive, relate only to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

Leases.

Restriction on effect of License to alien.

XX. Where any license to do any act which without such license would create a forfeiture, or give a right to re-enter, under a condition or power reserved in any lease heretofore granted, or to be hereafter granted, shall, at any time after this Act comes into operation, be given to any lessee or his assigns, every such license shall, unless otherwise expressed extend only to the permission actually given, or to any specific breach of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent any proceeding for any subsequent breach (unless otherwise specified in such license); and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and shall be available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made dispunishable by such license, in the same manner as if no such license had been given; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done.

Restricted operation of partial licenses.

XXI. Where in any lease heretofore granted or to be hereafter granted, there is or shall be a power or condition of re-entry on assigning or under-letting, or doing any other specified act without license, and a license at any time after the passing of this Act shall be given to one of several lessees or co-owners to assign or under-let his share or interest, or to do any other act prohibited to be done without license; or shall be given to any lessee or owner, or any one of several lessees or owners, to assign or under-let part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees, or owner or owners, of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may be) over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license.

Apportionment of conditions of re-entry in certain cases.

XXII. Where the reversion upon a lease is severed, and the rent or other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him.

Rent-charges.

Release of part of land charged, not to be an extinguishment.

XXIII. The release from a rent-charge of part of the immoveable property, charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the property released without prejudice nevertheless to the rights of all persons interested in the property remaining unreleased, and not concurring in or confirming the release.

Powers.

Mode of execution of powers.

XXIV. A deed hereafter executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing not testamentary, notwithstanding it shall have been expressly required that a deed or instrument in writing made in exercise of such power should be executed or attested with some additional or other form of execution, or attestation or solemnity: Provided always, that this provision shall not operate to defeat any direction in the instrument creating the power, that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument: and nothing herein contained shall prevent the donee of a power from executing it conformably to the power by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend.

Legatee in trust may raise money by sale, notwithstanding want of express power in the will.

XXV. Where by any will which shall come into operation after the passing of this Act, the testator shall have charged his immoveable property or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have bequeathed the property so charged to any Trustee or Trustees for the whole of his estate or interest therein, and shall not have made any express provision for the raising of such debt, legacy or sum of money out of such property, it shall be lawful for the said legatee or legatees in trust, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy or money as aforesaid by sale and absolute disposition by public auction or private contract, of the said property or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other; and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same shall think proper.

Powers given by last Section extended to survivors, legatees, &c.

XXVI. The powers conferred by the last preceding Section shall extend to all and every person or persons in whom the property bequeathed in trust shall for the time being be vested by survivorship, or under the laws relating to intestate or testamentary succession, or to any person or persons who may be appointed under any power in the will, or by the High Court, to succeed to the trusteeship vested in such legatee or legatees in trust as aforesaid.

Executors to have power of raising money, &c, where there is no sufficient bequest.

XXVII. If any testator who shall have created such a charge as is described in Section 25 of this Act, shall not have bequeathed the property charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any Trustee or Trustees, the executor or executors (if any) for the time being named in such will, shall have the same or the like power of raising the said mon-

eys as is hereinbefore vested in the legatee or legatees in trust of the said property, and such power shall from time to time devolve on and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested.

XXVIII. Purchasers or mortgagees shall not be bound to enquire whether the powers conferred by Sections 25, 26 and 27 of this Act, or any of them, shall have been duly and correctly exercised by the person or persons acting in virtue thereof.

Purchasers, &c., not bound to enquire as to powers.

Inheritance.

XXIX. In cases of intestacies occurring before the first day of January 1866, where there shall be a total failure of heirs of the purchaser, or where any immoveable property shall be descendible as if an ancestor had been the purchaser thereof, and there shall be a total failure of the heirs of such ancestor, then and in every such case the property shall descend, and the descent shall thenceforth be traced from the person last entitled to the property as if he had been the purchaser thereof. This Section shall be read as part of Act No. XXX of 1839 (*for the amendment of the law of inheritance.*)

Descent how to be traced.

Assignment of Moveables and terms for Years.

XXX. Any person shall have power to assign moveable property now by law assignable, terms for years of immoveable property, and estates by *elegit*, directly to himself and another person or other persons or corporation, by the like means as he might assign the same to another.

Assignment to self and others.

Purchasers.

XXXI. The *bonâ fide* payment to and the receipt of any person to whom any purchase or mortgage money shall be payable upon any express or implied trust, shall effectually discharge the person paying the same from seeing to the application, or being answerable for the misapplication thereof.

Not to be bound to see to the application of purchase money, &c.

Investment of Trust Funds.

XXXII. Trustees having trust money in their hands which it is their duly to invest at interest, shall be at liberty, at their discretion, to invest the same in any Government securities, and such Trustees shall also be at liberty at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature: Provided always, that no such original investment as aforesaid, and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person.

On what securities trust funds may be invested.

Trustees and Executors.

XXXIII. In all cases where any property is held by Trustees in trust for a minor, either absolutely or contingently on his attaining majority, or on the occurrence of any event previously to his attaining majority, it shall be lawful for such Trustees, at their sole discretion, to pay to the guardians (if any) of such minor, or otherwise to apply for or towards the maintenance or education of such minor, the whole or any part of the income to which such minor may be entitled in respect of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not; and such Trustees shall accumulate all the residue of such income thereof from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen: Provided always, that it shall be lawful for such Trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

Trustees may apply income of property of minors, &c., for their maintenance.

XXXIV. Whenever any Trustee, either original or substituted, and whether appointed by any High Court or otherwise, shall die, or be six months absent from British India, or desire to be discharged from, or refuse, or become unfit or incapable to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will, or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing Trustees or Trustee for the time being, or the acting executors or executor, or administrators or administrator of the last surving and continuing Trustee, or for the retiring Trustees, if they shall all retire simultaneously, or for the last retiring Trustee or where there are two or more clas-

Provision for appointment of new Trustees, on death, &c.

ses of Trustees of the instrument creating the trust, then for the surviving or continuing Trustees or Trustee of the class in which any such vacancy or disqualification shall occur (and for this purpose any refusing or retiring Trustee shall, if willing to act in the execution of the power, be considered a continuing Trustee,) by writing to appoint any other person or persons to be a Trustee or Trustees in the place of the Trustee or Trustees so dying, or being absent from British India, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid. So often as any new Trustee or Trusteees shall be so appointed as aforesaid, all the trust property (if any) which for the time being shall be vested in the surviving or continuing Trustees or Trustee, or in the heirs, executors or administrators of any Trustee, shall with all convenient speed be conveyed and transferred so that the same may be legally and effectually vested in such new Trustee or Trustees, either, solely or jointly with the surviving or continuing Trustees or Trustee, as the case may require. Every new Trustee to be appointed as aforesaid, as well before as after such conveyance or transfer as aforesaid, and also every Trustee appointed by any High Court either before or after the passing of this Act, shall have the same powers, authorities, and discretion, and shall in all respects act as if he had been originally nominated a Trustee by the deed, will, or other instrument (if any) creating the trust. The Official Trustee may with his consent, and by the order of the High Court, be appointed under this Section in any case in which only one Trustee is to be appointed and such Trustee is to be the sole Trustee.

Appointment of new Trustee in place of Trustee predeceasing testator.

XXXV. The power of appointing new Trustees hereinbefore contained, may be exercised iu cases where a Trustee nominated in a will has died in the life-time of the testator.

Trustee's receipts to be discharges.

XXXVI. The receipts in writing of any Trustees or Trustee for any money payable to them or him by reason, or in the exercise, of any trusts or powers reposed or vested in them or him, shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the Trustees.

XXXVII. Every deed, will, or other instrument creating a trust either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say, "that the Trustees or Trustee for the time being of the said deed, will, or other instrument, shall be respectively chargeable only for such monies, stocks, funds and securities, as they shall respectively actually receive, notwithstanding their respectively singing any receipts for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects, or default, and not for those of each other, nor for any banker, broker or other person with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the Trustees or Trustee for the time being of the said deed, will, or other instrument, to reimburse themselves or himself, or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will, or other instrument."

Executors may compound, &c.

XXXVIII. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims, and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give, and execute such agreements, instruments of composition, releases, and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby.

Trustee, &c., making payment under power of attorney, not to be liable by reason of death of party giving such power.

XXXIX. No Trustee, executor or administrator making any payment or doing any act *bonâ fide* under or in pursuance of any power of attorney, shall be liable for the moneys so paid or the act so done, by reason that the person who gave the power of attorney was dead at the time of such payment or act, or had done some act to avoid the power: Provided that the fact of the death, or of the doing of such act as last aforesaid, at the time of such payment or act *bonâ fide* done as aforesaid by such Trustee, executor or administrator, was not known to him: Provided always, that nothing herein contained shall in any manner affect or prejudice the right of any person entitled to the money against the person to whom such payment shall have been made; but that such person so entitled shall have the same remedy against such person to whom such payment shall be made as he

would have had against the Trustee, executor or administrator, if the money had not been paid away under such power of attorney.

As to liability of executor or administrator in respect of rents, covenants, or agreements.

XL. Where an executor or administrator liable as such to the rents, covenants, or agreements contained in any lease or agreement for a lease granted or assigned, whether before or after the passing of this Act, to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease, or agreement for a lease, as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part, or any further part (as the case may be) of the estate of the deceased, to meet any future liability under the said lease or agreement for a lease. The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease. Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

As to liability of executor, &c., in respect of rents, &c., in conveyance on rent-charge.

XLI. In like manner, where an executor or administrator liable as such to the rent, covenants, or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant, or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part or any further part (as the case may be) of such estate to meet any future liability under the said conveyance, or agreement for a conveyance. The executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for conveyance. Nothing herein containted shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

As to distribution of the assets of testator or intestate after notice given by executor and administrator.

XLII. Where an executor or administrator shall have given such or the like notices, as in the opinion of the Court in which such executor or administrator is sought to be charged would have been given by the High Court in an administration suit, for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets or a part thereof, as the case may be. Nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

Trustee, executor, &c., may apply by petition to Judge of High Court for opinion, advice, &c., in management, &c., of trust property.

XLIII. Any Trustee, executor or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court for the opinion, advice or direction of such Judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate. Such application shall be served upon, or the hearing thereof shall be attended by, all persons interested in such application, or such of them as the said

Judge shall think expedient. The Trustee, executor or administrator acting upon the opinion, advice or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such Trustee, executor or administrator in the subject matter of the said application: Provided nevertheless, that this Act shall not extend to indemnify any Trustee, executor or administrator, in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if such trustee, executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction : and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made.

General Provisions.

Tenants for life, &c. may execute powers, notwithstanding incumbrances.

XLIV. For the purposes of this Act, a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of immoveable or moveable property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever to any extent; but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

Operation of Act.

XLV. The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil or other instrument executed after this Act comes into operation, or under a will or codicil confirmed or revived by a codicil executed after that date, and only to property in British India and to cases to which English law is applicable.

Short title.

XLVI. This Act may be called "the Trustees and Mortgagees' Powers' Act, 1866."

*** From first February 1867, Act to apply to Straits' Settlement.**

XLVII. On and after the first day of February 1867, but not till then, this Act shall apply to the Settlement of Prince of Wales' Island, Singapore and Malacca: and in the said Settlement, Section 29 of this Act shall be read as if the words and figures "first day of February 1867" were substituted for the words and figures, "first day of January 1866."

THE

UNREPEALED ACTS

OF THE

LEGISLATIVE COUNCILS

OF

INDIA AND BENGAL.

BY JAMES W. FURRELL.

VOL. II. PART IIA.

THE UNREPEALED ACTS

OF THE

GOVERNOR-GENERAL OF INDIA IN COUNCIL.

1867—1869.

CALCUTTA:
PUBLISHED BY MESSRS. W. NEWMAN AND CO.

I. No subscription or contribution, or agreement to subscribe or contribute, made or entered into after the passing of this Act, for or toward any plate, prize, or sum of money, of the value or amount of five hundred rupees or upwards, to be awarded to the winner or winners of any horse-race, shall be deemed unlawful by reason of anything contained in the said Act No. XXI of 1848.

Subscriptions or agreements to subscribe to plates, &c. may be lawful notwithstanding Act No. XXI of 1848.

II. Nothing in this Act shall be deemed to legalize any transaction connected with horse-racing to which the provisions of Act No. V of 1844 *(for the suppression of all lotteries not authorized by Government)* apply.

Nothing in this Act to legalize lotteries.

ACT No. IX OF 1867.

(Received the assent of the Governor-General on the 8th February 1867.)

1.—*Construction of certain Sections of Act No. VIII of* 1864.

2.—*Act to be read with Act VIII of* 1864.

An Act to make further provision for suits by and against the Comptoir D'Escompte of Paris.

Preamble.

Whereas it is expedient to make further provision for suits and other proceedings by or on behalf of or against the Comptoir D' Escompte of Paris; It is hereby enacted as follows:—

I. In Act No. VIII of 1864 *(to enable the "Comptoir D' Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company)*, Section 2, 3, 4, 5, 12 and 13, the expressions 'Chief Manager of the Agencies in British India of the said Comptoir D' Escompte' and 'Chief Manager' shall be taken to include any person for the time being acting as Chief Manager of the said Agencies, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the said Sections may be instituted or carried on.

Construction of certain Sections of Act No VIII of 1864.

II. This Act shall be read with and taken as part of the said Act No. VIII of 1864.

Act to be read with Act VIII of 1864

ACT No. X OF 1867.

(Received the assent of the Governor-General on the 15th February 1867.)

1.—*Power to refer to High Court questions arising previous to the hearing of suits or in the execution of decrees or orders.*

2.—*This Act to be read with Act XI of* 1865.

An Act to empower Courts of Small Causes in the Mofussil to refer for decision questions arising previous to the hearing of suits or in the execution of decrees or orders.

Preamble.

Whereas it is expedient to enable the Courts constituted under Act No. XI of 1865 *(to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the Ordinary Original Civil Jurisdiction of the High Courts of Judicature)* to refer for the decision of the High Court within whose jurisdiction they may respectively be situate, questions of law or usage having the force of law arising previous to the hearing of suits under the said Act or in the execution of decrees or orders in such suits; It is hereby enacted as follows:—

I. If at any point in the proceedings previous to the hearing of a suit under the said Act, or if in the execution of the decree or order in any such suit, any question of law or usage having the force of law shall arise, the Court, in suits for an amount not exceeding five hundred rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than five hundred rupees, shall draw up a statement of the case, and refer it with the Court's own opinion thereon to the decision of the High Court within whose jurisdiction such Court may be situate. If the question has arisen previous to the hearing, the Court may either stay such proceedings, or proceed in the case notwithstanding such reference, and pass a decree contingent upon the opinion of the High Court upon the point referred. If a decree has been made, the execution of the decree shall be stayed until the receipt of the order of the High Court upon such reference. All the provisions contained in this Section shall apply, *mutatis mutandis*, to the stating of a case by a Registrar.

Power to refer to High Court questions arising previous to the hearing of suits or in the execution of decrees or order.

II. This Act shall be read with and taken as part of Act No. XI of 1865; and the provisions contained in Sections 24, 25, 26, 27, and 28 of that Act shall, *mutatis mutandis*, apply to cases referred under this Act.

This Act to be read with Act XI of 1865.

ACT No. XI OF 1867.

(Received the assent of the Governor-General on the 1st March 1867.)

1.—*Interpretation Clause. "British India." "Local Government"*
2.—*Power to extend Act V of 1857.*

An Act to empower the Oriental Gas Company, Limited, to extend their operations to certain places in British India.

Preamble.

WHEREAS under or by virtue of Act No. V of 1857 (*to confer certain powers on the Oriental Gas Company Limited*), certain powers exerciseable only in Calcutta and its environs were conferred on the Oriental Gas Company, Limited; And whereas it is expedient to empower the said Company to extend, with the previous sanction of the Local Government, their operations to any other place in British India; It is hereby enacted as follows:—

Interpretation Clause. "British India."

I. In this Act—"British India" means the territories which are or may become vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*); and in any part of British India in which this Act shall operate, "Local Government" means the person or persons authorized by law to administer executive Government in such part.

"Local Government."

II. The Local Government may, by notification in the official *Gazette*, extend the said Act No. V of 1857, to any place within the territories subject to such Government, other than Calcutta and its environs: provided that, in every place to which the said Act shall be so extended, Section III of the same Act shall be read as if for the words 'Town of Calcutta,' the name of the place to which the said Act shall be so extended were substituted: Section 7 of the same Act shall be read as if for the words and figures 'Act XIV of 1856,' the following words were substituted; (that is to say) 'any law for the time being in force to provide for the conservancy and improvement of such place:' Section XXII of the said Act shall be read as if after the words 'Joint Stock Companies' Act, 1856,' the following words were inserted; (that is to say) 'the Indian Companies' Act, 1866, or any other Statute or Act for the time being in force relating to Joint Stock Companies'; and as if for the expression 'Supreme Court of Judicature at Fort William,' the name of the highest Civil Court of appeal in such place were substituted; and as if for the expression 'the territories of the East India Company,' the expression 'British India' as defined in this Act, were substituted.

ACT No. XII OF 1867.

(Received the assent of the Governor-General on the 1st March 1867.)

An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay.

Bill 22 of 1870 proposes to repeal this Act.

ACT No. XIII OF 1867.

(Received the assent of the Governor-General on the 1st March 1867.)

1.—*Port-due of five annas six pie chargeable on vessels of twenty-five tons entering Moulmein or Bassein.*
2.—*Section 1 to be read with Acts XXXV of 1857 and XXV of 1860.*
3.—*Coast Light Dues payable in respect of vessels of fifty tons.*
4.—*Payment of light-dues by vessel taking cargo off coast.*
5.—*Exemption of vessels making certain voyages from coast light-dues.*
6.—*Ships to pay tolls on return voyages.*
7.—*Ships-of-war to be exempt from toll.*
8.—*Management of the lights vested in the Chief Commissioner of British Burmah*
9.—*Appointment of Collector of tolls.*
10.—*Tolls to be paid before port-clearance is granted.*
11.—*Tolls to be paid to proper officer, who shall give a receipt for the same.*
12.—*Port-clearance not to be granted till tolls are paid, and ship and goods may be distrained and sold for tolls.*
13.—*Collector may sue for recovery of tolls.*
14.—*Burden of ship how to be ascertained.*
15.—*Evading payment of tolls.*
16.—*Magistrate to decide dispute respecting tolls.*
17.—*Governor-General in Council may alter rates of tolls.*

An Act for the levy of enhanced Port-dues in the Ports of Moulmein and Bassein, and to provide for the establishment and maintenance of Coast Lights in the eastern part of the Bay of Bengal.

Preamble.

WHEREAS under Act No XXXV of 1857 (*for the levy of Port-dues in the Ports of Moulmein, Rangoon, Kyouk Phyoo, Akyab and Chittagong*), and under Act No. XXV of 1860 (*for the levy of Port-dues in the Port of Bassein*), the maximum rate of port-dues leviable in the ports of Moulmein and Bassein, is four annas for every ton of burden in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter the same ports respectively: And whereas, for the purpose of defraying the expense of maintaining the port-lights of British Burmah, it is expedient to enhance the rate so leviable to the extent hereinafter mentioned: And whereas lights have been established on the Cocos and on the Alguada Reef, and a light to be called "the Oyster Reef Light," and other lights or beacons are intended to be hereafter established and maintained in the eastern part of the Bay of Bengal for the safety and guidance of ships navigating the same: And whereas it is just and reasonable that such ships should be liable to contribute to the expense of the lights and beacons last aforesaid; It is hereby enacted as follows:—

Port due of five annas six pie chargeable on vessels of twenty five tons entering Moulmein or Bassein.

I. A port-due not exceeding the rate of five annas and six pie per every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of twenty-five tons and upwards, which shall enter either of the said ports of Moulmein and Bassein; and such port-due shall, to the extent of one anna six pie, be applicable in the first place to defray the expense of maintaining the existing port-lights of British Burmah.

Section 1 to be read with Acts XXXV or 1857 and XXV of 1860

II. The last preceding Section shall be read with, and taken as part of, the said Acts Nos. XXXV of 1857 and XXV of 1860.

Coast Light Dues payable in respect of vessels of fifty tons.

III. From and after the passing of this Act, a toll to be called Coast Light Dues shall be paid in respect of every vessel of the burden of fifty tons and upwards, at the rate of one anna per ton of burden, in the cases following; (that is to say):—

(1.) If the voyage of such vessel be from the Straits of Malacca or from any place eastward of the said Straits to Bassein:

(2.) If the voyage be from Akyab to Bassein, Rangoon or Moulmein:

(3.) If the voyage be from the said Straits or from any place eastward of the said Straits to Akyab, or from Bassein, Rangoon, Moulmein, or the coast of Tenasserim to Akyab:

(4.) If the voyage be from Calcutta, Madras, or any other place on the eastern coast of India, or from Ceylon or any port to the westward of Ceylon, to Akyab, from and after the establishment and during the maintenance of the said Oyster Reef Light:

(5.) If the voyage be from Calcutta, Madras, or any other place on the eastern coast of India, or from Ceylon or any port to the westward of Ceylon to Bassein, Rangoon, Moulmein, or any port on the Tenasserim Coast:

(6.) If the voyage be to the port of Calcutta from Port Blair, the Straits' Settlement, or any place eastward of Port Blair except the ports of British Burmah:

(7.) If the voyage be from Calcutta to Port Blair, the Straits' Settlement, or any place eastward thereof:

(8.) If the voyage be from Rangoon or Moulmein to Bassein or from Bassein to Rangoon or Moulmein, from and after the establishment and during the maintenance of a light either on the Baraguay Flat or on the Krishna Shoal.

Payment of light-dues by vessels taking cargo off coast.

IV. Any vessel taking in any cargo off the coast of British Burmah and not entering any port for that purpose, shall pay the same light-dues as she would have been liable to pay had she taken in her cargo at the port at which a port-clearance shall be granted to such vessel.

Exemption of vessels making certain voyages from coast light dues.

V. Nothing hereinbefore contained shall authorize the levy of coast light dues on vessels making the voyage from the Straits of Malacca, or from any place to the eastward thereof, to Rangoon or Moulmein.

Ships to pay tolls on return voyages.

VI. The return of a ship from any port or place shall be deemed a distinct voyage within the meaning of this Act, notwithstanding toll shall have been paid in respect of her voyage to such port or place, and notwithstanding the terms of any charter-party.

Ships of war to be exempt from toll.

VII. Notwithstanding anything hereinbefore contained, Ships-of-war belonging to Her Majesty or to any Foreign Government or State, shall be exempt from the payment of the tolls leviable under this Act.

Management of the lights vested in the Chief Commissioner of British Burmah.

VIII. The management and control of the said coast lights and the other lights and beacons mentioned or referred to in the preamble to this Act, are hereby vested in the Chief Commissioner of British Burmah, subject to the directions of the Governor-General of India in Council.

Appointment of Collector of tolls.

IX. The said Chief Commissioner may appoint any person he may think fit to be a Collector of the tolls leviable under this Act, at any port, harbour, or place under his administration.

Tolls to be paid before port clearance is granted.

X. The tolls to be levied under Section 3 of this Act shall become due and be payable, in respect of any ship clearing out or departing from any port, harbour or roadstead, in the possession of or under the Government of India, upon any such voyage as aforesaid, previously to the granting of any port-clearance for such ship or, in the event of her not requiring a port-clearance, on her preparing to leave such port, harbour, or roadstead on such voyage; and in respect of any ship entering any such port, harbour, or roadstead as aforesaid, upon or during, or at the termination of any such voyage from any port or place not under the Government of India, the toll shall be payable immediately upon her entering such port, harbour, or roadstead.

Tolls to be paid to proper officer, who shall give a receipt for the same.

XI. The Collector or other chief officers of Customs at any port, harbour, or place in the possession or under the Government of India, or any other officer whom the Government to which such port, harbour or place is subordinate may appoint to receive the tolls last herein before refered to, shall Collect the same by himself, or by any officer in his establishment whom he shall appoint. The officer to whom any such toll shall be paid shall grant to the person paying the same a proper voucher in writing, under his hand, describing the name of his office, and the port or place at which such payment shall be made, the name; tonnage, and other proper description of the ship, and the voyage in respect of which such toll shall be paid.

Port clearance not to be granted till tolls are paid, and ship and goods may be distrained and sold for tolls.

XII. The officer of Government whose duty it shall be to grant a port-clearance for any ship clearing out of, or leaving any such port, harbour, or place under the Government of India, shall not grant such port-clearance to any ship until the owner or agent of such ship, or the master or other person in command thereof, shall pay all tolls to which such ship shall be liable under Section 3 of this Act, or produce a proper voucher for, or give satisfactory proof of, the payment of such tolls at the same or some other port or place. If any master or owner or other person having the charge of any ship liable to the payment of any tolls under Section 3 of this Act, shall refuse or neglect to pay the amount thereof to the person authorized to collect or receive the same, such person may distrain or cause to be distrained any goods or merchandize, to whomsoever the same may belong, on board such ship, and any tackle, apparel, or furniture belonging to such ship, and may remove the same, or cause the same to be removed, to some convenient place, leaving on board such ship notice in writing of such distress, and of the cause thereof, and of the place of removal: if such tolls, together with the costs of such distress and removal, shall not be paid within three whole days after the seizure, exclusive of the day of such seizure, the person authorized to collect or receive such tolls may cause the goods, merchandize, tackle, apparel, and furniture so seized to be sold, and out of the proceeds of such sale shall pay the amount of the tolls to which such ship may be liable under this Act, together with the reasonable costs of such seizure, detention, and sale, rendering to the master or owner, or other person having the command of such vessel, the over-plus, if any, on demand.

Collector may sue for recovery of tolls.

XIII. Notwithstanding anything in this Act contained, the person authorized to collect the said tolls at any such port, harbour, or place aforesaid, may in his own name, sue for and recover, on behalf of the Government of India, the amount of any tolls payable to him under this Act, by suit in any of the Civil Courts against the owner or master, other person who, at the time of such toll becoming due, shall have the command of any ship liable thereto.

Burden of ship how to be ascertained.

XIV. In order to ascertain the burden of any ship liable to pay toll under Section 3 of this Act, the person authorized to collect such toll may require the owner, master, or other person in command of such ship, or any person having possession of the same, to produce the register of such ship for the inspection of such person, if the ship shall be a British register or a ship registered in any part of the territories vested in Her Majesty or Her Successors under the Statute 21 & 22 Vic. cap. 106 (*An Act for the better Government of India*), and upon the refusal or neglect of any such owner, master, or other person to produce such register, or, if such ship shall not be a ship registered as aforesaid, upon the refusal or neglect of such owner or master to satisfy the person authorized to collect such tolls as to what is the true burden of the ship, it shall be lawful for such person to cause such ship to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under Section 3 of this Act, or it shall be lawful for such person to deliver to such master, owner, or other person in command of the ship or in the possession thereof, or to leave for him on board such ship, a notice in writing specifying what in his judgment is the burden of the ship, and the burden specified in such notice shall be deemed to be the real burden of

the ship and be treated as such for all the purposes of this Act, until the owner master, or other person having the command of the ship shall give sufficient proof of the true burden thereof.

XV. The master of any ship which shall depart from or enter any such port, harbour, or roadstead, as aforesaid, upon, or in the course of, or at the termination of any voyage, shall, upon demand by any person authorized to collect or receive tolls under Section 3 of this Act, specify upon what voyage he is bound; and if any master of any such ship shall refuse or neglect so to do, or shall give a false statement, or shall endeavour to evade the payment of any tolls payable under Section 3 of this Act, or shall obstruct any officer of Government in the discharge of his duty under this Act, he shall be punishable by a Magistrate in a summary manner by a fine not exceeding two hundred Rupees.

Evading payment of tolls.

XVI. If any dispute shall arise respecting the liability of any ship to the payment of toll under Section 3 of this Act, or in respect of the burden of any ship, or the amount of toll payable, or the amount of any charges on account of any distress, removal, or sale under this Act, such dispute shall be heard and determined by a Magistrate in a summary manner, and the decision of such Magistrate shall a final.

Magistrate to decide disputes respecting tolls.

XVII. The Governor-General of India in Council may, from time to time as he may think fit, reduce the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise the same to any amount not exceeding the amounts above specified.

Governor-General in Council may alter rates of tolls.

ACT NO. XIV OF 1867.

(Received the assent of the Governor-General on the 1st March 1867.)

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1. *Persons on whom the Pandhari tax is assessable. Limitation of rates of assessment.*
2. *Chief Commissioner may make rules as to assesment and collection of the Pandhari tax.*
3. *For what the rules may provide.*
4. *Recovery of arrears.*
5. *Breaches of rules by whom triable.*
6. *Extension of this Act to other parts of the Central Provinces.*
7. *Indemnity Clause.*

An Act provide for the assessment of the Pandhari tax in certain parts of the Central Provinces.

WHEREAS there has for many year existed, and now exists in certain districts of the Central Provinces, a tax called the Pandhari tax assessable on all persons not engaged in agriculture: And whereas it is expedient to make rules for regulating the assessment of such tax; It is enacted as follows:—

Preamble.

I. The Pandhari tax is hereby declared to be assessable on all persons dwelling or personally working for gain or carrying on business within the districts of Nagpore, Wurdah, Chundah, Bhundara, Chindwarra, Raepore, Belaspore and Sumbulpore, any part of whose income is derived from any source other than agriculture: Provided that no person whose estimated income is less than seventy-five Rupees a year shall be assessed to the said tax; that no person shall be assessed to the said tax at a rate exceeding two *per centum* on his estimated income, and that no person shall be assessable to the said tax at a sum exceeding five hundred Rupees per annum.

Persons on whom the Pandhari tax is assessable.

Limitation of rates of assessment.

II. The Chief Commissioner of the Central Provinces may, from time to time, with the previous sanction of the Governor-General of India in Council, make and publish in such manner as may seem fit, rules not inconsistent with the provisions of this Act or of any other law for the time being in force, to provide (amongst other things) for the matters hereinafter mentioned.

Chief Commissioner may make rules as to assessment and collection of the Pandhari tax.

III. The rules made under the last preceding Section may provide:—

(1.) For regulating the manner, and rates, and classes of assessments:

(2.) For regulating the time and manner of collecting the amount assessed; and for allowing, to the persons employed in the collection, fees not exceeding three *per centum* on the amount assessed upon the tax-payers:

(3.) For the imposition of penalties on persons convicted of the breach of any rule or regulation made under the last preceding Section: Provided that no penalty shall exceed a fine of fifty Rupees, or imprisonment for a term not exceeding eight days:

(4.) For exempting from the operation of this Act special classes of persons in receipt of fixed salaries or pensions, in respect of such salaries or pensions:

For what the rules may provide.

(5.) For determining the person or persons by whom, and the manner in which, in the case of any person to whom this Act shall apply, his or her estimated income, within the meaning of Section 1 of this Act, shall be ascertained.

Recovery of arrears.

IV. Arrears of the said tax shall be recoverable by distress and sale of any moveable property belonging to the defaulter; or, when he or she shall not have any moveable property of which a distraint can be made, or when, after his or her moveable property shall have been distrained and sold, the arrear due together with all expenses of the distress and sale is not liquidated by the proceeds of such sale; then under such rules and procedure as may, for the time being, be in force in the Central Provinces for the realization out of immoveable property of land revenue.

Breaches of rules by whom triable.

V. Breaches of rules made under Section 2 of this Act shall be triable by any Magistrate.

Extension of this Act to other parts of the Central Provinces

VI. The provisions of this Act may be extended by order of the Governor-General of India in Council to any district or districts of the Central Provinces other than those named in Section 1 of this Act.

Indemnity clause.

VII. Every Deputy Commissioner and other officer in the Central Provinces, however such office is designated, is hereby indemnified for any thing done before the passing of this Act had been in force; and no suit or other proceeding shall be maintained against any such Deputy Commissioner or other officer in respect of anything so done.

ACT No. XV OF 1867.

(Received the assent of the Governor-General on the 1st March 1867.)

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1. *Interpretation Clause. "Committee." "Lieutenant-Governor." "Number."*
2. *Power to extend this Act to towns.*
3. *Existing Committees to be deemed Committees under this Act.*
4. *Power to define limits of towns to which Act extends.*
5. *Power to appoint members of Committee.*
6. *Power to levy rates or make assessments.*
7. *Power to make rules for collection and application of rates.*
Municipal Fund.
Duties and powers of Committees.
10. *Power to make rules.*
11. *Power to make bye-laws as to nuisances and registration of births and deaths.*
12. *Power to suspend or limit powers of Committee.*
13. *Provision for Police.*
14. *Bye-laws to be confirmed and published.*
15. *Suits by and against Committees. Contracts of Committees. Liability of members of Committees.*
16. *No suit to be brought against the Committee or their officers, until after one months notice of cause of suit.*
17. *Penalty on member or servant of Committee being interested in contracts made with Committee.*
18. *Penalty for infringement of rules or bye-laws, or non-payment of fines.*
19. *Prosecutions. Fines. Recovery of rates.*
20. *Existing assessments and bye-laws to be deemed to have been made under this Act.*
21. *Application of Section 20 to Central Provinces and Oudh. Power to extend this Act to Central Provinces and Oudh.*
23. *Expiration of Act.*

An Act to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes.

Interpretation Clause. "Committee"

I. In this Act—unless there be something repugnant in the subject or context,—"Committee" means a Municipal Committee appointed under the provisions of this Act.:

'Lieutenant-Governor'

"Lieutenant-Governor" means the Lieutenant-Governor of the Panjab.

"Number."

Words in the singular number include the plural, and words in the plural number include the singular.

Power to extend this Act to towns.

II. The Lieutenant-Governor may extend this Act or any of its Sections or provisions, by notification in the local *Gazette*, to any town in the territories under his Government.

III. From the date of the passing of this Act, all Municipal Committees previously appointed with the sanction of any Lieutenant-Governor or Chief Commissioner of the Panjab, other than Municipal Committees appointed under Act No. XXVI of 1850 *(to enable improvements to be made in towns)*, shall be deemed Committees under this Act. The Lieutenant-Governor may extend by notification in the local *Gazette*, all or any of the provisions of this Act, to Municipal Committees appointed under the said Act No. XXVI of 1850. So much of any Act, Regulation or Rule having the force of law, as may be inconsistent with any provision so extended) to a Committee, shall, from and after the date of such extension, cease to have effect in the case of such Committee.

Existing Committees to be deemed Committees under this Act.

IV. For the purposes of this Act, the Lieutenant-Governor may, from time to time, by notification in the local *Gazette*, define the limits of any town to which this Act shall have been extended, and may include within the limits of such town any railway station, village, building or land in the vicinity of such town.

Power to define limits of towns to which Acts extends.

II.—Appointment, Duties and powers of Committees.

V. In any town to which this Act shall have been extended, the Lieutenant-Governor may appoint, either *ex officio* or otherwise, or direct the appointment by election of any number of persons not less than five, to be members of a Committee, or he may appoint some of the members of such Committee and direct the appointment of others by election for carrying out the purposes of this Act. The Lieutenant-Governor may from time to time remove any of the members of any Committee, add to their number, and fill up vacancies occurring among them. The Lieutenant-Governor may determine the time and manner of the election of those members whom he may direct to be appointed by election, and the persons by whom they shall be elected, and generally may make any rules for regulating the election of such members that he may think fit. The Lieutenant-Governor may also appoint the President and Vice-President, or either of them, of any Committee, or sanction the election by any Committee of one of their members as President or Vice-President or either of them. All appointments under this Section shall be notified in the local official *Gazette*.

Power to appoint members of Committee.

VI. Every Committee may, with the previous sanction of the Lieutenant-Governor, define the persons or property within the town to be taxed for the purposes of this Act, the amount or rate of the taxes to be imposed, and may impose such taxes accordingly.

Power to levy rates or make assessments.

VII. It shall be lawful for the Lieutenant-Governor from time to time to make rules as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed, and for the Collection of such taxes and for the safety and due application of them when collected, and for the rendering and publishing of such estimates and accounts relating to the expenditure of the Municipal Funds and in such form as he may think fit. The Lieutenant-Governor may from time to time repeal, alter or add to such rules. No tax shall be collected under this Act, until it shall have been confirmed by the persons and in manner herein before mentioned.

Power to make rules for collection and application of rates.

VIII. All sums received by the Committee of any town to which this Act extends, and all fines levied under this Act, shall constitute a fund, which shall be called the Municipal Fund of such town, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Municipal Fund.

IX. Every Committee, so far as the Municipal Fund at their disposal will permit, shall, after providing out of such Fund for a Police establishment in manner hereinafter mentioned, keep the public streets, roads, drains, tanks and water-courses of the town for which they are appointed clean and repaired, and may cause such streets and roads, or any of them, to be watered and lighted, and may construct new streets, drains, tanks and water-courses, and may construct and provide for the management of poorhouses, dispensaries, market places and other works of general utility, and generally may do all acts and things necessary for the purposes of conservancy and local improvement, and may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education in the town for which such Committee is appointed.

Duties and powers of Committees.

X. Any Committee may make rules for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members of the Committee, the salaries, appointment, supervision and removal of the officers and servants of the Committee, and other similar matters.

Power to make rules.

XI. It shall be lawful for any Committee to make bye-laws for defining, prohibiting, and removing nuisances which are not public or common nuisances under the Indian Penal Code, or under Act No. V of 1861 *(for the regulation o Police)*,

Power to make bye-laws as to nuisances and registration of births and deaths.

and for the securing of a proper regulation of births and deaths, and for carrying out all or any of the purposes of this Act. And the Committee may from time to time repeal, alter or add to such bye-laws.

Power to suspend or limit powers of Committee.

XII. The Lieutenant-Governor may by order, suspend or limit all or any of the powers of any Committee, and may also cancel any of the proceedings or rules of any Committee.

Provision of Police.

XIII. Every Committee shall set apart out of the Municipal Fund, such sum as the Lieutenant-Governor shall require for the maintenance of the Police establishment in the town.

Bye-laws to be confirmed and published.

XIV. No bye-law and no alteration or repeal of or addition to a bye-law shall have effect until the same shall have been confirmed by the Lieutenant-Governor. All bye-laws made under this Act, and all rules made under Section 10 of this Act, and all alterations and repeals of and additions to such bye-laws and rules, shall be published for such length of time and in such manner as the Lieutenant-Governor shall order.

III.—Suits by and against Committees.

Suits by and against Committees.

XV. Every Committee shall sue and be sued in the name of their President. Every contract made on behalf of any Committee in respect of any sum exceeding Rupees twenty or in respect of any property exceeding Rupees twenty in value, shall be in writing, and shall be signed by the President or Vice-President (if any) and at least two other members of the Committee, and unless so executed shall not be binding on the Committee. No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the Committee shall be liable for, and chargeable with, all contracts duly made as aforesaid. Every member of a Committee shall be liable for any misapplication of money entrusted to be Committee to which he shall have been a party, or which shall happen through, or be facilitated by his neglect of his duty, and he shall be liable to be sued for the same in such Court as the Lieutenant-Governor shall direct as for money due to the Government.

Contracts of Committees.

Liability of members of Committees.

No suit to be brought against the Committee or their officers, until after one month's notice of cause of suit.

XVI. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Committee, or at the place of abode of such person, explicitly stating the cause of suit and the name and place of abode of the intended plaintiff; and unless such notice be proved, the Court shall find for the defendants and every such suit shall be commenced within three months next after the accrual of the cause of suit, and not afterwards: and if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

IV.—Penalties.

Penalty on member or servant of Committee being interested in contracts made with Committee.

XVII. No member of a Municipal Committee or servant of the Committee shall be interested directly or indirectly in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred Rupees. Provided always, that no person by being a shareholder in or member of any incorporated or registered Company, shall be disqualified from acting as a member or servant of a Committee by reason of any contract entered into between such Company and the Committee. Nevertheless it shall not be lawful for such shareholder or member to act as a member of the Committee in any matter relating to any contract entered into between the Committee and such Company.

Penalty for infringement of rules or bye-laws, or non-payment of fines.

XVIII. Whoever infringes any rule made under Section 10 of this Act, or any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty Rupees, and in the case of a continuing infringement, to a fine not exceeding five Rupees for every day after notice from the Committee of such infringement. In default of payment of any fine imposed under this Section, the defaulter shall be liable to be imprisoned for a term not exceeding eight days.

Prosecutions.

Fines.

Recovery of rates.

XIX. Prosecutions under this Act for infringements of rules or by-laws may be instituted before any Magistrate by the Committee or any person authorised by the Committee in this behalf, and all fines imposed under this Act may be recovered in the manner prescribed in Section 61 of the Code of Criminal Procedure. Rates and arrears of rates imposed under this Act may be recovered as if they were fines.

V.—Miscellaneous.

XX. All assessments, bye-laws, rules and regulations of any kind relating to matters provided for in this Act, which may, previous to the passing of this Act, have been made by or received the approval of any Lieutenant-Governor or Chief Commissioner of the Punjab shall be deemed to have been made in accordance with the provisions of this Act. And all proceedings taken under any such assessment, bye-laws, rules and regulations shall be deemed to be as valid as if the same had been taken under this Act.

XXI. Section 20 of this Act shall apply to the Central Provinces and Oudh as if for the words "Lieutenant-Governor or Chief Commissioner of the Punjab, the words "Chief Commissioner of the Central Provinces and Oudh" were substituted, and as if the extention next hereinafter mentioned had been made. And it shall be lawful for the Governor-General of India in Council to extend this Act or any of its provisions, by notification in the *Gazette of India* and the local official *Gazette*, to any town in the territories respectively under the administrations of the Chief Commissioners of the Central Provinces and Oudh, and on and after such extension, this Act shall be constructed in such town as if the words "Lieutenant-Governor," were defined to include Chief Commissioners of the Central Provinces and Oudh; as if for the word "Government," the word "administration" were substituted; and as if for the words and figures Act No. XXVI of 1850 (*to enable Improvements to be made in Towns*)," the words and figures "Act No. XVIII of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknow*)" were substituted. Provided that when such extension shall be effected, the previous sanction of the Governor-General of India in Council shall be necessary to the validity of any order made by a Chief Commissioner under Section 12 of this Act.

XXII. This Act shall expire in five years in the territories subject to the Lieutenant-Govenor of the Panjab, and if it shall be extended to the Central Provinces or Oudh under the last preceding Section, it shall expire in such Provinces or Oudh, as the case may be, in five years from the date of such extension

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ACT No. XVI OF 1867.

(Received the assent of the Governor-General on the 1st March 1867.)

An Act to authorize the making of acting appointments to certain Judicial Offices.

Whereas the Governor-General of India in Council or the Local Government as the case may be, is empowered by divers enactments to appoint the Judges of certain Courts in British India: And whereas it has been doubted whether it is empowered to appoint persons to act temporarily as such Judges, and it is expedient to remove such doubts; It is hereby enacted as follows:—

In every case in which the Governor-General of India in Council, or the Local Government, as the case may be, has power under any Act or Regulation to appoint a Judge of any Court in British India, such power shall be taken to include the power to appoint any person capable of being appointed a permanent Judge of such Court, to act as Judge of the same Court for such time as the Governor-General of India in Council or the Local Government as the case may be shall direct. Every person appointed to act temporarily as a Judge of any such Court shall have the powers and perform the duties which he would have had and been liable to perform in case he had been duly appointed a permanent Judge of the same Court.

II. Every such Act and Regulation shall be construed as if it contained a special clause to the purport or effect of the first Section of this Act.

ACT NO. XVIII OF 1867.*

(Received the assent of the Governor-General on the 8th March 1867.)

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1. *Short title.*
2. *Repealed.*
3. *Certain rules regarding jurisdiction and procedure of Revenue officers in Jhansi to cease to have effect.*
4. *Interpretation clause. "High Court." "Lieutenant-Governor." "Assistant Commissioner."*
5. *"District." "District Court" "Division." "Divisional Court."*
6. *Grades of Courts in the Jhansi Division.*
7. *Lieutenant-Governor may declare grade to which a Tahsildar or Assistant Commissioner belongs.*
8. *Jurisdiction of Court of Tahsildar of the second class.*
9. *Jurisdiction of Court of Tahsildar of the first class.*
10. *Jurisdiction of Court of Assistant Commissioner of the second class.*
11. *Jurisdiction of Court of Assistant Commissioner of the first class.*
12. *Jurisdiction of Court of Deputy Commissioner.*
13. *Jurisdiction of Court of Commissioner.*
14. *Appellate Jurisdiction of the High Court.*
15. *Time for presenting appeals.*
16. *Extraordinary original jurisdiction.*
17. *High Court to superintend and to frame rules of practice for subordinate Courts.*
18. *Lieutenant-Governor may invest any one with powers of Commissioner or of Deputy Commissioner.*
19. *Court in which suit shall be instituted.*
20. *Appeal to lie from all decisions, except when expressly prohibited.*
21. *Deputy Commissioner may distribute business among subordinate Courts.*
22. *Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.*
23. *High Court may transfer suits from one subordinate Court to another.*
24. *Suits for immoveable property situate in different districts*
25. *Suits for immoveable property situate in districts subject to different Commissioners.*
26. *Commencement of Act.*

An Act to define the jurisdiction of the Courts of Civil Judicature in the Jhansi Division.

Preamble.

WHEREAS it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Jhansi Division; It is hereby enacted as follows:—

Short title.

I. This Act shall be called "The Jhánsi Courts' Act, 1867."

II. Repealed by Act. XIV of 1870.

Certain rules regarding jurisdiction and procedure of Revenue officers in Jhansi to cease to have effect.

III. So much of the rules passed by the Government of the North-Western Provinces, relating to the jurisdiction and procedure of Revenue officers within the districts of the Jhansi Division, and confirmed by the said Act No. XXIV of 1864, Section 1, as directed that suits regarding landed property should be heard by the Revenue Courts, shall, from the date of this Act coming into operation, cease to have effect in the said districts with regard to all such suits except summary suits. And so much of the said rules as relates to summary suits in

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*Act. XXVII 1867. to be read as part of this Act.

the Revenue Courts, whether as Courts of first instance or appeal, shall remain in force until the said Government shall, by notification in the official *Gazette* declare otherwise.

Interpretation clause.

IV. In this Act—

"High Court" means the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal; "Lieutenant-Governor" means the Lieutenant-Governor of the said Provinces, and "Assistant Commissioner" includes Extra Assistant Commissioner.

"High Court."
"Lieutenant Governor."
"Assistant Commissioner."

V. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

"District."
"District Court."
"Division."
"Divisional Court."

Grades of Courts in the Jhansi Division.

VI. There shall be seven grades of Courts in the Jhansi Division, which shall be in addition to any Courts of Small Causes and to any other Courts established under any Act which may hereafter be passed, *viz*:—

(1.) The Court of the Tahsildar of the second class:
(2.) The Court of the Tahsildar of the first class:
(3.) The Court of the Assistant Commissioner of the second class:
(4.) The Court of the Assistant Commissioner of the first class:
(5.) The Court of the Deputy Commissioner:
(6.) The Court of the Commissioner:
(7.) The High Court.

Lieutenant-Governor may declare grade to which a Tahsildar or Assistant Commissioner belongs.

VII. The Lieutenant-Governor shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner in the said Division shall belong.

Jurisdiction of Court of Tahsildar of the second class.

VIII. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed one hundred Rupees in value or amount.

Jurisdiction of Court of Tahsildar of the first class.

IX. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed three hundred Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the Second class.

X. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed one thousand Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

XI. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed five thousand Rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

XII. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second and third grades.

Jurisdiction of Court of Commissioner.

XIII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fourth and fifth grades.

Appellate Jurisdiction of High Court.

XIV. The High Court shall have power to hear and determine appeals from original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioner, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners, and by the Commissioner of the Division.

Time for presenting appeals.

XV. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within the said period; that is to say, thirty days, if the appeal lie to the Deputy Commissioner; six weeks, if the appeal lie to the Commissioner of the Division; and ninety days, if the appeal lie to the High Court. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Memoranda of special appeal shall be presented in the High Court within the period hereinbefore fixed for appeals.

Extraordinary original jurisdiction.

XVI. The High Court shall have power to remove and to try and determine as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court in the said Division, when the High Court shall think proper to do so, either on the agreement of the parties to that effect or for purposes of justice, the reasons for so doing being recorded on the proceedings of the High Court.

High Court to superintend and to frame rules of practice for subordinate Courts.

XVII. The High Court shall have superintendence over all Courts in the said Division, and shall have power to call for returns, and to make and issue general rules for regulating the practice and proceedings of such Courts, and also to prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the attornies, vakils and all clerks and officers of such Courts, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be used and observed in the said Court; provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force, and shall, before they are issued, have received the sanction of the Lieutenant-Governor.

Lieutenant-Governor may invest any one with powers of Commissioner or of Deputy Commissioner.

XVIII. Whenever the state of the public business requires it, the Lieutenant-Governor shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Jhánsí Divison.

Court in which suit shall be instituted.

XIX. Every suit shall be instituted in the Court of the lowest grade competent to try it: provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Appeal to lie from all decisions, except when expressly prohibited.

XX. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorised by this Act to hear appeals from the decisions of those Courts.

Deputy Commissioner may distribute business among subordinate Courts.

XXI. The Deputy Commisioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit. Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.

XXII. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

High Court may transfer suits from one subordinate Court to another.

XXIII. The High Court may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such High Court, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value or amount of the subject-matter of the suit or appeal to try the same.

Suits for immoveable property situate in different districts

XXIV. If the suit be for any immoveable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate,; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in districts subject to different Commissioners.

XXV. If the District Courts within the limits of whose jurisdiction any immoveable property sued for is situate are subordinate to different Commissioners, application for authority to proceed with the suit shall be made to the Commissioner of the Division to whom the District Court in which the suit is brought is subordinate, and such Commissioner may, after hearing the objections, if any of the defendant, give authority to proceed with the suit.

Commencement of Act.

XXVI. This Act shall come into operation on such day as the said Government shall declare by notification in the official *Gazette*.

ACT No. XIX OF 1867.

Received the assent of the Governor-General on the 8th March 1867.

An Act to make further provision for the administration of justice in the District of Darjiling.

Bill No. 20 of 1870 proposes to repeal this Act.

ACT No. XX OF 1867.

Received the assent of the Govenor-General on the 8th March 1867.)

1. *Power to permit transhipment without payment of duty.*
2. *Levy of transhipment fee.*
3. *This Act to be read as part of Act VI of 1863.*
4. *This Act not to apply to salt and opium.*

An Act to authorize the transhipment, without payment of duty, of goods imported into Calcutta, Madras and Bombay by Steamers.

Preamble.

WHEREAS in transhipping goods imported by steamers into Calcutta, Madras and Bombay and destined for other ports, delay arises from the necessity of paying duty and obtaining drawback in respect of such goods, or of entering into a bond as required by Section 110 of Act No. VI of 1863 *(to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India)* if duty is not paid: And whereas it is expedient to diminish such delay so far as may be practicable; It is hereby enacted as follows:—

Power to permit transhipment without payment of duty.

I. Subject to such rules as may from time to time be prescribed by the local Government, the Chief officer of Customs of the port of Calcutta, Madras or Bombay, as the case may be, may, on application of any person interested as owner, agent, consignee or otherwise in any goods imported by steamers into Calcutta, Madras or Bombay, as the case may be, grant leave to transship the same without payment of duty at the port of transshipment and without any security or bond for the due arrival and entry of the goods at the port of destination, when such goods have been specially and distinctly manifested or declared at the time of import as for transshipment to any other British Indian or foreign port.

Levy of transhipment fee

II. A transshipment fee on each bale or package of goods so transshipped shall be levied at such rates and under such regulations as may from time to time be prescribed by the Local Government. All such rates and regulations shall be published in the local *Gazette*,

This Act to be read as part of Act VI of 1863.

III. This Act shall be read as part of the said Act No. VI of 1863, and shall not be construed as in any respect limiting the power of the Customs officers to levy duty or to require such bonds and other securities as are authorized by the said Act.

This Act not to apply to Salt and Opium

IV. Nothing in this Act shall apply to the transshipment of Salt or Opium.

ACT No. XXII OF 1867.

Received the assent of the Governor-General on the 15th March 1867.).

1. *Repeal of Bengal Regulation XIV. of 1807. Section 11, Clause 5.*
2. *Interpretation clause. "Sarai." "Keeper of a Sarai" "Magistrate of the District." Number. "Local Government."*
3. *Notice of this Act to be given to keepers of Sarais.*
4. *Registers of Sarais to be kept.*
5. *Lodgers, &c., not to be received in Sarais until registered.*
6. *Magistrate may refuse to register keeper not producing certificate of character*
7. *Duties of keepers of Sarais.*
8. *Power to order reports from keepers of Sarais.*

9. *Power to shut up, secure, clear, and clean deserted Sarai.*
10. *Taking down or repairing ruinous Sarai.*
11. *Sale of materials of ruinous Sarais.*
12. *Penalty for permitting Sarais to be filthy or over grown. Proviso.*
13. *Power for Local Government to make regulations.*
14. *Penalty for infringing Act or regulations.*
15. *Conviction for third offence to disqualify persons from keeping Sarais.*
16. *Nothing in Act to apply to certain Sarais.*
17. *Extent of Act. Power to Governor General in Council to extend this Act.*
18. *Short title.*

An Act for the regulation of public Sarais and Puraos.

Preamble.

WHEREAS it is expedient to provide for the regulation of public Sarais and Puraos; It is hereby enacted as follows:—

Repeal of Bengal Regulation XIV of 1807, Section 11, Clause 5

I. Regulation XIV of 1807 of the Government of the Presidency of Fort William in Bengal, Section 11, Clause 5, is hereby repealed so far as it applies to public Sarais in the Territories to which this Act may from time to time apply.

Interpretation clause.

II. In this Act—unless there be some thing repugnant in the subject or context—

"Sarai"

"Sarái" means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a building is used as a Sarai, the part so used of such building. It also includes a Purao so far as the provisions of this Act are applicable thereto:

"Keeper of a Sarai"

"Keeper of a Sarai" includes the owner and any person having, or acting in, the care or management thereof:

"Magistrate of the District."

"Magistrate of the District" means the chief Officer charged with the executive administration of a district in criminal matters whatever may be his designation:

Number

Words in the singular include the plural and *vice-versâ*.

"Local Government

And in any place in which this Act shall operate "Local Government" shall mean the person administering Executive Government in such place, and shall include a Chief Commissioner and the Commissioner in Sind.

Notice of this Act to be given to keepers of Sarais.

III. Within six months after this Act shall come into operation, the Magistrate of the district, in which any Sarai to which this Act shall apply may be situate shall, and from time to time thereafter such Magistrate may, give to the keeper of every such Sarái notice in writing of this Act, by leaving such notice for the keeper the Sarái; and shall by such notice require the keeper to register the Sarái as by this Act provided. Such notice may be in the form in the schedule to this Act annexed or the like effect.

Registers of Sarais to be kept

IV. The Magistrate of the District shall keep a register in which shall be entered by such Magistrate or such other person as he shall appoint in this behalf, the names and residences of the keepers of all Saráis within his jurisdiction, and the situation of every such Sarái. No charge shall be made for making any such entry.

Lodgers, &c., not to be received in Sarais until registered.

V. After one month after the giving of such notice to register as by this Act provided, the keeper of any Sarái or any other person shall not receive any lodger or allow any person, cattle, sheep, elephant, camel or other animal, or any vehicle to halt or be placed in such Saráis until the same and the name and residence of the keeper thereof shall have been registered as by this Act provided.

Magistrate may refuse to register keeper not producing certificate of character.

VI. The Magistrate of the District may, if he shall think fit, refuse to register as the keeper of a Sarái a person who does not produce a certificate of character in such form and signed by such persons as the Local Government shall from time to time direct.

Duties of keepers of Sarias.

VII. The keeper of a Sarái shall be bound—

(1.) When any person in such Sarái is ill of any infectious or contagious disease, or dies of such disease, to give immediate notice thereof to the nearest police-station:

(2.) At all times when required by any Magistrate or any other person duly authorized by the Magistrate of the District in this behalf, to give him free access to the Sarái and allow him to inspect the same or any part thereof:

(3.) To thoroughly cleanse the rooms and verandahs and drains of the Sarái, and the wells, tanks, or other sources from which water is obtained for the persons or animals using it, to the satisfaction of and so often as shall be required by the Magistrate of the District, or such person as he shall appoint in this behalf:

(4.) To remove all noxious vegetation on or near the Sarái, and all trees and branches of trees capable of affording to thieves means of entering or leaving the Sarái:

(5.) To keep the gates, walls, fences, roofs and drains of the Sarái in repair

(6.) To provide such number of watchmen as may, in the opinion of the Magistrate of the District, subject to such rules as the Local Government may prescribe in this behalf, be necessary for the safety and protection of persons and animals or vehicles lodging in, halting at, or placed in the Sarái ; and

(7.) To exhibit a list of charges for the use of the Sarái at such place and in such form and languages as the Magistrate of the District shall from time to time direct.

Power to order reports from keepers of Sarais.

VIII. The keeper of a Sarai shall, from time to time, if required so to do by an order of the Magistrate of the District served upon him, report, either orally or in writing as may be directed by the magistrate, to such Magistrate or to such person as the Magistrate shall appoint, every person who resorted to such Sarái during the preceding day or night. If written reports are required for any space of time exceeding a single day or night, schedules shall be furnished by the Magistrate of the District to the keeper. The keeper shall from time to time fill up the said schedules with the information so required, and transmit them to the said Magistrate, in such manner and at such intervals as may from time to time be ordered by him.

Power to shut up, secure, clear, and clean deserted Sarai.

IX. If any Sarái by reason of abandonment or of disputed ownership shall remain untenanted, and thereby become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming to be the owner, if he be known and resident within the District, and may also cause such notice to be put on some conspicuous part of the Sarái, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clear the same; and if such requisition shall not be complied with within eight days, the Magistrate of the district may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the Sarái, and shall be recoverable like penalties under this Act, or, in case of abandonment or disputed ownership of the Sarái, by the sale of any material found therein.

Taking down or repairing ruinous Sarais

X. If a Sarai or any part thereof be deemed by the Magistrate of the district to be in a ruinous state, or likely to fall, or in any way dangerous to the persons or animals lodging in or halting at the Sarái, he shall give notice in writing to the keeper of the Sarái, requiring him forthwith to take down, repair or secure (as the case may be) the Sarái or such part thereof as the case may require. If the keeper do not begin to take down ; repair, or secure the Sarái, or such part as aforesaid within three days after such notice, and complete such work with due diligence, the Magistrate shall cause all or so much of the Sarái as he shall think necessary to be taken down, repaired or otherwise secured. All the expenses so incurred by the Magistrate shall be paid by the keeper of the Sarái, and shall be recoverable from him as hereinafter mentioned.

Sale of materials of ruinous Sarais

XI. If any such Sarái or any part thereof be taken down by virtue of the powers aforesaid, the Magistrate of the District may sell the materials thereof, or or so much of the same as shall be taken down under the provisions of the last preceding Section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the overplus (if any) arising from such sale to the owner of such Sarái on demand, and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act.

Penalty for permitting Sarais to be filthy orovergrown.

XII. Whoever, being the keeper of any Sarai, suffers the same to be in a filthy and unwholesome state, or overgrown with vegetation, or after the expiration of two days from the time of his receiving notice in writing from the Magistrate of the District to cleanse or clear the same, or after he shall have been convicted of suffering the same to be in such state or so overgrown as aforesaid, shall allow the same to continue in such state, or so overgrown, shall be liable to the penalties Provided in section 14 of this Act Provided that the Magistrate of the District may, in lieu of enforcing such daily penalty, enter on and cleanse or clear the said Sarái, and the expense incurred by the Magistrate in respect thereof shall be paid to him by the keeper, and shall be recoverable as by this Act provided in the case of penalties.

Proviso.

Power for Local Government to make regulations.

XIII. The local Government may from time to time make regulations for the better attainment of the objects of this Act, provided that such rules be not inconsistent with this Act or with any other law for the time being in force, and may from time to time repeal, alter and add to the same. All regulations made under this Act, and all repeals thereof and alterations and additions thereto, shall be published in the local official *Gazette*.

Penalty for infringing Act or regulations.

XIV. If the keeper of a Sarái offend against any of the provisions of this Act or any of the regulations made in pursuance of this Act, he shall for every

such offence be liable on conviction before any Magistrate to a Penalty not exceeding twenty Rupees, and to a further penalty not exceeding one Rupee a day for every day during which the offence continue: Provided always, that this Act shall not exempt any person from any penalty or other liability to which he may be subject irrespective of this Act. All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under Section 61 of the Code of Criminal Procedure.

Conviction for third offence to disqualify persons from keeping Sarais.

XV. Where a keeper of a Sarai is convicted of a third offence under this Act, he shall not afterwards act as keeper of a Sarái without the license in writing of the Magistrate of the District, who may either withhold such license or grant the same on such terms and conditions as he may think fit.

Nothing in Act to apply to certain Sarais.

XVI. No part of this Act, except Section 8, shall apply to any Sarái which may be under the direct management of the Local Government or of any Municipal Committee.

Extent of Act. Power to Governor-General in Council to extend this Act.

XVII. This Act shall in the first instance extend only to the Territories under the government of the Lieutenant Governor of the North-West Provinces of the Presidency of Fort William in Bengal. But it shall be lawful for the Local Government, by notification in the local *Gazette*, to extend this Act, *mutatis mutandis*, to any other part of the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 *An Act for the better government of India)*, except the towns of Calcutta, Madras and Bombay, and the Settlement of Prince of Wales' Island, Singapore and Malacca.

Short Title.

XVIII. This Act may be called "The Sáráis Act, 1867."

SCHEDULE.

Form of Notice.

Take notice that on the day of 1867, an Act called "The Sráis' Act, 1867," was passed, and that before the day of 18 you, being the keeper of a Sarái [*or* Purao] within [*here state the district over which, the juridiction of the Magistrate giving the notice extends*] must have your Sarai [*or* Purao] registered, and that the register is to be kept at [*here state where the register is to be kept*], and that if you do not have your Sarái [*or* Purao] so registered you will be liable to a penalty not exceeding twenty Rupees, and to a further penalty not exceeding one Rupee a day for every day during which the offence continues, and that on your applying to [*here give the name and address of the person to keep the register*] he will register your Sarái (*or* Purao) free of all charge to you.

Dated the day of 18 .

ACT No. XXIII of 1867.

(*Received the assent of the Governor-General on the 8th March* 1867.)

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1. *Lieutenant Governor empowered to extend this Act to any part of the Punjab.*
2. *Fanatics murdering or attempting to murder liable to death or transportaion for life, and forfeiture of property.*
3. *Offences under Act to be offences under penal Code.*
4. *Forfeiture of property and disposal of bodies of fanatics killed in committing outrages punishable under this Act.*
5. *Trial before Commissioner.*
6. *Trial to be with aid of Assessors.*
7. *What the Judgment is to specify.*
8. *Disposal of bodies of criminals sentenced to death.*
9. *Proceedings to be reported to Lieutenant Governor.*
10. *No appeal from orders or sentences under this Act.*
11. *Procedure when Commissioner thinks that offender's crime is not contemplated by this Act.*
12. *Lieutenant Governor's powers as to confinement of persons under this Act.*
13. *Power of Magistrate as to persons suspected.*
14. *Exercise of jurisdiction conferred by this Act.*
14. *Power to withdraw any class of cases from operation of Act.*
16. *Power to issue circular orders.*
17. *Expiration of Act.*

An Act for the suppression of murderous outrages in certain districts of the Panjab.

WHEREAS in certain districts of the Panjab, fanatics have frequently murdered or attempted to murder servants of the Queen and other persons: And whereas the general law of the country is not adequate to suppress such offences; It is hereby enacted as follows:— Preamble.

I. It shall be lawful for the Lieutenant Governor of the Panjab, with the previous consent of the Governor General of India in Council, by a proclamation published in the official *Gazette*, from time to time to declare any part or parts of the territories under his government to be subject to the operation of all or any of the provisions of this Act, and also, by such proclamation and with such consent as aforesaid, from time to time to withdraw from the operation of such provisions any part or parts of the said Territories which he may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of the same provisions, or of any of them. Lieutenant Governor empowered to extend this Act to any part of the Punjab.

II. Any fanatic who shall murder, or who shall, within the meaning of the Indian Penal Code, Section 307, attempt to murder any servant of the Queen or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government. Fanatics murdering or attempting to murder liable to death or transportation for life, and forfeiture of property.

III. Every offence made punishable under this Act shall be deemed an offence within the meaning of the Indian Penal Code. Offences under this Act to be offences under Penal Code.

IV. Whenever any fanatic shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Commissioner who under the provisions hereinafter contained would have had cognizance of the offence if the offender could have been brought to trial to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government and to dispose of his body as such Commissioner shall think fit. Forfeiture of property and disposal of bodies of fanatics killed in committing outrages punishable under this Act.

V. Subject to the provision contained in Section 14 of this Act, any offence triable under this Act shall be tried by the Commissioner of the Division in which it has been committed; and in respect of all such offences the Commissioner shall follow the procedure prescribed for a Magistrate by Sections 248 to 255 (both inclusive) of the Code of Criminal Procedure: Provided that, if he shall be of opinion that any witness or evidence is offered for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material, and if the Commissioner be not so satisfied, he shall not be bound to summon the witness or examine the evidence so offered. Trial before Commissioner

VI. Trials under this Act before the Commissioner shall be conducted with the aid of two or more Assessors as Members of the Court. The Commissioner may appoint such persons (other than persons specified in Section 334 of the Code of Criminal Procedure) at such time and in such manner as he may think fit to serve as Assessors, and no persons shall be exempt, within the meaning of Section 335 of the same Code, from serving as such Assessors. The provisions of the Code of Criminal Procedure shall, save as aforesaid, apply to Assessors appointed under this Section. Trial to be with aid of Assessors.

VII. When any trial under this Act is concluded, if the accused person be convicted, it shall be sufficient if the Court, in passing judgment and in recording the finding and sentence, shall specify the offence of which he is convicted, and the Court shall immediately issue a warrant to the officer in charge of the Jail in which the prisoner is confined to cause the sentence to be carried into execution, and such sentence shall be carried into execution accordingly. No sentence of death passed under this Act shall require confirmation by any Court. What the judgment is to specify.

VIII. When any person shall be sentenced to death under this Act, his body shall be disposed of as the Commissioner by whom he was so sentenced shall direct. Disposal of bodies of criminals sentenced to death.

IX. The proceedings in every trial held under this Act shall be reported to the Lieutenant Governor, without unnecessary delay, by the officer before whom such trial shall have been held. Proceedings to be reported to Lieutenant Governor.

No appeal from orders or sentences under this Act.

X. Notwithstanding anything contained in the Code of Criminal Procedure or "The Panjáb Chief Court Act, 1866," no appeal shall lie from any order or sentence under this Act.

Procedure when Commissioner thinks that offender's crime is not contemplated by this Act.

XI. If any Commissioner in whom jurisdiction is vested by this Act shall be of opinion that the accused person has committed an offence punishable under the Indian Penal Code, but that such offence is not contemplated by the preamble to this Act, the offender shall be dealt with in manner provided in such case by the Code of Criminal Procedure.

Lieutenant Governor's powers as to confinement of persons under this Act.

XII. The said Lieutenant Governor shall have, with respect to the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the Governor General of India by any law regarding the confinement of persons charged with or suspected of State offences? and the provisions of any such law shall, *mutatis mutandis*, be applicable to all cases in which the Lieutenant Governor shall proceed under the authority of this Section.

Power of Magistrate as to persons suspected.

XIII. Any person having the full powers of a Magistrate may cause any person against whom there are in his judgment grounds of proceeding under the last preceding Section, to be apprehended; and after such enquiry as he may think necessary, may detain such person in safe custody until he shall have received the orders of the said Lieutenant Governor, to whom, in all such cases, he shall report his proceedings without unnecessary delay.

Exercise of jurisdiction conferred by this Act.

XIV. The jurisdiction conferred by this Act on a Commissioner may be exercised, in the case of any offence punishable under this Act, by any person having the full powers of a Magistrate whom the Commissioner to whom he may be subordinate, or the said Lieutenant Governor, shall, after the Commission of such offence, specially invest with such jurisdiction.

Power to withdraw any class of cases from operation of Act.

XV. It shall be lawful for the said Lieutenant Governor, either on his own motion or at the request of the Chief Court of the Panjáb, from time to time, to withdraw any class of cases from the operation of this Act.

Power to issue circular order.

XVI. With the previous consent of the said Lieutenant Governor, but not otherwise, the said Chief Court may, from time to time, make and issue circular orders for the guidance of officers in cases under this Act; provided that such orders are consistent with the provisions herein contained. All such orders shall be published in the official *Gazette*, and shall be obeyed by the officers aforesaid.

Expiration of Act.

XVII. This Act shall expire in ten years from the date of passing it, or at such earlier date as the Governor General of India in Council may order.

ACT NO. XXIV OF 1867.

(Received the assent of the Governor-General on the 22nd March 1867.)

1.—*Short Title.*

2.—*Repeal of Acts.*

3.—*Interpretation clause.*—"*Presidency of Bengal.*"—"*Presidency of Madras.*" "*Presidency of Bombay.*"—"*Presidency Town.*"—"*Government.*"—"*District Judge.*" "*Letters of administration.*"—"*Next-of-kin.*"—"*Officer.*"—"*Soldier.*"—"*Assets.*" "*Gender.*"—"*Number.*"

4.—*Designation of the Administrators General in the three Presidencies.*

5.—*Appointment, suspension and removal of Administrators General.*

6.—*Qualification of future and continuance of existing incumbents.*

7.—*Administrator General not to be deemed an officer of High Court.*

8.—*Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrator General.*

9.—*No Administrator General to be Ecclesiastical Registrar, Administrator General not to hold any other office without sanction of Government.—Proviso.*

10.—*Penalty for trading.—Exception.*

11.—*Security to be given by Administrator General.*

11.—*Security to be given by Administrator General.—Substitution of security or sureties.*

12.—*No security nor oath to be required by Court from Administrator General.*

13.—*Appointment of officiating Administrator General.*

14.—*As regards Administrator General, High Court at Presidency Town to be deemed a Court of competent jurisdiction within meaning of Sections* 187 *and* 190 *of Indian Succession Act.*

15.—Administrator General entitled to letters of administration, unless granted to next-of-kin of deceased.—Administator General entitled in preference to creditor, non-universal legatee or friend.

16.—When administration of estates of persons other than Hindus, Muhammadans or Buddhists is to be by Administrator General.

17.—Upon death of any person leaving assets within local limits, High Court may, on application, if assets are in danger, direct Administrator General to apply for administration.—Administration to effects of deceased Hindus, Muhammadans or Buddhists, not to be granted under this Section, unless required to protect the assets. Costs of unnecessary application.

18.—Upon death of any person leaving assets within local limits, High Court may if property is in danger, enjoin Administrator General to collect and hold the same, until right of succession or administration is ascertained.—Rate of commission payable in such case.

19.—Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.—Costs of proceedings taken by the Administrator General to be paid out of the estate.

20.—If no executor or next-of-kin appear or give necessary security, letters of administration to be granted to Administrator General.

21.—Administrator General in certain cases to secure and distribute the estate and effects of soldiers.—Proviso.

22.—Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.

23.—After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.—Exception.—Proviso.

24.—What payments made or acts done by Administrator General prior to revocation of administration upon production of a Will, shall be deemed valid.

25.—In what cases Court may recall Administrator General's administration and grant probate, &c., to executor or next-of-kin.—Unless a Will is proved, application to revoke such administration must be made within six months and without needless delay.

26.—Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

27.—Exclusion of creditors who have not proved, from assets with which a dividend is made.—After one year from grant of administration, distribution of assets by Administrator General to be allowed against all claims of which he had no notice.—Person receiving payments liable to refund.—What to be notice of debt or claim.

28.—Letters of administraiion to be granted to Administrator General in virtue of his office.—Authority given by such letters.

29.—Grant of probate to Administrator General named as executor by virtue of his office.

30.—Transfer by private executor or administrator of interest under probate or letters of administration.

31.—Vesting of estates, &c., in successor of Administrator General.

32.—Administrator General to sue and be sued in his representative capacity by his name of office.—Suit not to abate by death, &c.—Proviso as to costs.

33.—Creditor's suits against Administrator General.

32.—Administrator General to sue and be sued in his representative capacity by his name of office.—Suit not to abate by death, &c.—Proviso as to costs.

33.—Creditor's suits against Administrator General.

34.—In what case Administrator General may grant certificate.—No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings' Bank.

35.—Grant of certificate to creditors.—Proviso.

36.—Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

37.—Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.—Right of executor or administrator against certificate-holder.—Right of creditor against assets in hands of certificate-holder.

38.—Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

39.—Fee for certificate.

40.—Administrator General to defray expenses of establishment, and all other charges not expressly provided for.

41.—Administrator General to keep separate account for each estate, to be open to inspection on payment of fee.

42.—*Administrator General to furnish half-yearly schedules.—Schedules to be filed and published.*

43.—*Government to appoint auditors.*

44.—*Auditors to examine schedule, and report to Government.*

45.—*Auditors to have power to summon witnesses and to call for books, &c.—Penalty for non-attendance.*

46.—*Costs of preparing schedules, &c., how to be paid.*

47.—*Auditors to report specially to Government if accounts appear not correct.*

48.—*Proceedings upon such report.*

49.—*Costs of reference, &c., how to be defrayed.*

50.—*Commission to be received by Administrator General.*

51.—*Section 50 not to apply to property of officers and soldiers dying on service, which shall come to hands of Administrator General.—Administrator General entitled to a commission of only three per cent, on gross amount of such property.*

52.—*What expenses, &c., commission is to cover.—How payable.—Commission retained to be deemed a distribution.*

53.—*Commission of the Administrator General of Bengal may be raised and again reduced.—Commission of the Administrators General of Madras and Bombay may be reduced and again raised.—Proviso.*

54.—*Commission or agency not to be charged by executor or administrator other than the Administrator General.—Request in favour of executors not affected.*

55.—*Government may make and alter rules and orders consistent with this Act.—For custody of assets.—For remittance of money.—For guidance of Administrator General.—Proviso as to rules now in force.*

56.—*Publication of orders, &c.*

57.—*Orders of the Court to have same effect, and to be executed in same manor, as a decree.*

58.—*Penalty for false evidence.*

59.—*Assets unclaimed for fifteen years to be transferred to Government.—Proviso.*

60.—*Mode of proceeding by claimant to recover principal money so transferred.*

61.—*District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.*

62.—*Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.*

63.—*Indian Succession Act and Indian Companies' Act not to affect Administrator General.*

64.—*Power to appoint a Deputy Administrator General for the North-Western Provinces and the Panjab, Oudh and the Central Provinces.*

An Act to consolidate and amend the law relating to the office and duties of Administrator General.

WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of administrator General; It is hereby enacted as follows :—

Short Title.

I. This act may be called "The Administrator General's Act 1867."

Repeal of Act.

II. Repealed by Act XIV of 1870.

Interpretation clause.

III. In this Act—unless there be something repugnant in the subject or context—

"Presidency of Bengal."

"Presidency of Bengal" includes the Territories which are or shall for the time being be respectively under the governments of the Lieutenant Governors of Bengal, the North-Western Provinces and the Panjáb, and under the administrations of the Chief Commissioners of Oudh, the Central Provinces and British Burmah :

"Presidency of Madras."

"Presidency of Madras" includes the Territories which are or shall for the time being be under the government of the Governor of Fort St. George in Council, Coorg, and also, so far as regards British Subjects, Mysore and the Hyderabad Assigned Districts:

"Presidency of Bombay."

"Presidency of Bombay" means the Territories which are or shall for the time being be under the government of the Governor of Bombay in Council.

"Presidency Town."

"Presidency Town" means the town of Calcutta, Madras or Bombay, as the case may be :

"Government."

"Government" means the Governor General of India in Council, so far as the Act relates to the Presidency of Bengal; the person for the time being administering the executive government of the Presidency of Fort St. George, so far as the Act relates to the Presidency of Madras; and the person for the time being administering the executive government of the Presidency of Bombay, so far as the Act relates to that Presidency:

"District Judge."

"District Judge" means the Judge of a principal civil Court of original jurisdiction :

"Letters of administration" shall include any letters of administration, whether general or limited, or with a Will annexed, and letters *ad colligenda bona*: "Letters of administration."

"Next-of-kin" includes a widower or widow of a deceased person, or any other person, who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor or legatee of the deceased; "Next-of-kin."

"Officer" means a commissioned officer of Her Majesty's Army, or of Her Majesty's Indian Army: "Officer."

"Soldier" means a soldier of Her Majesty's Army, or European soldier of Her Majesty's Indian Army, including a warrant and a non-commissioned officer: "Soldier."

"Assets" includes immoveable as well as moveable property: "Assets."

Words in the masculine gender include the feminine; and words in the singular number include the plural, and *vice versa*. "Gender." "Number."

PART II.

Of the Office of Administrator General.

Designation of the Administrators General in the three Presidencies.

IV. In each of the Presidencies of Bengal, Madras and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment, suspension and removal of Administrators General.

V. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively; that is to say:—

The Administrator General of Bengal, by the Governor General of India in Council; the Administrator General of Madras, by the Government of Fort St. George; and the Administrator General of Bombay, by the Government of Bombay.

Qualification of future and continuance of existing incumbents.

VI. Any person hereafter appointed to the office of Administrator General or officiating Administrator General of any of the said Presidencies, shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland: but any person now holding such office shall continue to hold the same, subject to the provisions contained in the other Sections of this Act.

Administrator General not to be deemed an officer of High Court.

VII. The Administrator General shall not be deemed in that capacity to be an officer of any High Court.

Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrator General.

VIII. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in virtue of his office, shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to the Administrator General.

No Administrator General to be Ecclesiastical Registrar Administrator General not to hold any other office without sanction of Government.

Proviso.

IX. No person now holding the office of Administrator General, or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar; nor without the express sanction of Government, any other office together with that of Administrator General: provided that the Administrator General of the Presidency may be appointed Official Trustee under Act No. XVII of 1864 *(to constitute an office of Official Trustee)*: Provided also, that the Administrator General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

Penalty for trading. Exception.

X. It is hereby declared to be an offence punishable in manner provided by Section 168 of the Indian Penal Code, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person; unless so far as shall appear to him to be expedient for the due management of the estates which shall come into his charges under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

Security to be given by Administrator General.

XI. Unless the Governor General of India in Council, or the Government with the sanction of the Governor General of India in Council, shall otherwise order, every Administrator General hereafter to be appointed shall give security to the Secretary of State for India for the due execution of his office, for one lakh of rupees by his own bond, and for another lakh of rupees, or for separate sums amounting together to one lakh of rupees, by the deposit of Government securities, or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds: Provided that every Administrator General may, with the consent of Government, substitute either of the said two last-mentioned kinds of security for another previously given for such last mentioned lakh or any part of it: and every Administrator General

Substitution of security or sureties.

may, with the consent of Government, and shall from time to time when required by Government, so to do, cause fresh sureties to be substituted for any of those previously bound, so far as the security shall relate to the due execution of his office for the time then to come.

No security nor oath to be required by Court from Administrator General.

XII. No Administrator General shall be required by any Court to enter into any Administration bond, or to give other security to the Court, on the grant of any letters of Administration to him in virtue of his office. No Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification. Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Appointment of Officiating Administrator General.

XIII. Whenever any person holding the office of Administrator General shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Administrator General, and such person, while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law now in force or that may hereafter be enacted, and he shall be deemed to be Administrator General for the time being under this Act, and shall be liable to give security under Section 11 of this Act in like manner as if he had been appointed Administrator General.

PART III.

Of the Rights, Powers and Duties of the Administrator General. (a).—Grants of Letters of Administration and Probate to the Administrator General.

As regards Administrator General, High Court at Presidency Town to be deemed a Court of competent jurisdiction within meaning of Sections 187 and 190 of Indian Succession Act.

XIV. So far as regards the Administrator General of any of the Presidencies of Bengal, Madras and Bombay, the High Court of Judicature at the Presidency Town shall be deemed to be a Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act, 1865, wheresoever within the Presidency the property to be comprised in the probate or letters of Administration may be situate.

Administrator General entitled to letters of administration, unless granted to next-of kin of deceased.

Administrator General entitled in preference to creditor, non-universal legatee or friend.

XV. Any letters of Administration, or letters *ad colligenda bona*, which shall hereafter be granted by the High Court of Judicature at any Presidency Town, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next of kin of the deceased. The Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person, merely on the ground of his being a creditor, a legatee other than universal legatee, or a friend of the deceased.

When administration of estates of persons other than Hindus, Muhammadans or Buddhists is to be by Administrator General.

XVI. If any person, not being a Hindu, Muhammadan or Buddhist, or a person exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at the date of the death or within one year thereafter the value of one thousand rupees within any of the said Presidencies, and no person shall, within one month after his death, have applied in such Presidency for probate of a Will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the High Court of Judicature at the Presidency Town, letters of administration to the effects of such person, either generally or with a Will annexed, as the case may require. Whenever the Administrator General of the Presidency shall take proceedings under this Section, it shall be sufficient if the petition required by Section 246 of the Indian Succession Act, 1865, shall state the time and place of the deceased's death to the best of the petitioner's knowledge or belief, that the deceased left some property within the Presidency as hereinbefore defined, and the amount or value of assets which are likely to come into the petitioner's hands.

XVII. Whenever any person, whether a Hindú, Muhammadan or Buddhist or not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at the Presidency town, it shall be lawful for the Court, upon the application of any person interested in such assets, or in the due administration thereof, either as a creditor, legatee, next-of-kin or otherwise, or upon the application of a friend of any minor who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation, deterioration or waste of such assets unless letters of administration of the effects of such person are granted, to make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as to the Court shall seem fit, directing the Administrator General to apply for letters of administration of the effects of such person. Provided that, in the case of an application being made under this Section for letters of administration to the effects of a deceased Hindú, Muhammadan or Buddhist, or person exempted as aforesaid, the Court may refuse to grant letters of administration to any person, if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

Upon death of any person leaving assets within local limits, High Court may, on application, if assets are in danger, direct Administrator General to apply for administration.

Administration to effects of deceased Hindus, Muhammadans or Buddhists, not to be granted under this Section, unless required to protect the assets.

Costs of unnecessary application.

XVIII. Whenever any person, whether a Hindú, Muhammadan or Buddhist, or not, shall have died, whether before or after the passing of this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court shall be satisfied that danger is to be apprehended of the misappropriation, deterioration or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property, and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property; and the Administrator General shall be entitled to a commission of one *per centum* upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private administrator of such assets might lawfully have made; and in case letters of administration of any such property shall be afterwards granted to the Administrator General, the said commission of one *per centum* shall be deemed a part payment of the commission payable to the Administrator General under the letters of Administration. Any order of Court made under the provisions of this Section, shall entitle the Administrator General to collect and to take posssession of such property, and, if necessary, to maintain a suit for the recovery thereof.

Upon death of any person leaving assets within local limits, High Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.

Rate of commission payable in such case.

XIX. If in the course of proceedings to obtain letters of administration under the provisions of Section 16 or Section 17 of this Act, any executor appointed by a Will of the deceased shall appear according to the practice of the Court and prove the Will and accept the office of executor, or if any person shall appear according to such practice and make out his claim to letters of administration as next-of-kin of the deceased, and shall give such security as shall be required of him by law or by the practice of the Court, the Court shall grant probate of the Will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him to be paid out of the estate as part of the testamentary or intestate expenses thereof.

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

XX. If no person shall appear according to the practice of the Court and entitle himself to probate of a Will, or to a grant of letters of administration as next-of-kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant letters of administration to the Administrator General.

If no executor or next-of kin appear or give necessary security, letters of administration to be granted to Administrator General.

XXI. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any officer, soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed on the whole five hundred rupees, charging the estate with a commission of three *per centum* only. It shall not be necessary for the Administration General to take out letters of administration in cases referred to in this Section: but he shall have the same powers with regard to all such assets as he would have had if he had taken out such letters.

Administrator General in certain cases to secure and distribute the estate and effects of soldiers.

Proviso.

Administrator General not precluded from applying for letters of administration within one month after death.

XXII. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case, within the period of one month from the death of the deceased.

After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.

Exception.

Proviso.

XXIII. If any letters of administration which shall be granted to the Administrator General under the provisions of this Act, shall be revoked or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable; except as to any act done by any such Administrator General or other person as aforesaid, after notice of a Will or of any other fact which would render such letters of administration void; Provided that no notice of a will or of any other fact which would render any such letters of administration void, shall affect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the Will, or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

What payments made or acts done by Administrator General prior to revocation of administration upon production of a Will, shall be deemed valid.

XXIV. If any letters of administration which shall be granted under this Act shall be revoked upon the production and proof of a Will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such Will annexed, shall be deemed valid notwithstanding such revocation.

In what cases Court may recall Administrator General's administration and grant probate, &c., to executor or next-of-kin.

Unless a Will, is proved, application to revoke such administration must be made within six months and without needless delay

XXV. If an executor or next-of-kin of the deceased, who shall not have been personally served with a citation or had notice thereof in time to appear in pusuance theroof, shall establish to the satisfaction of the Court a claim to probate of a Will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid: Provided that no letters of administration which shall be granted to the Administrator General shall be revoked or recalled for the cause aforesaid, except in cases in which a Will or codicil of the deceased shall be proved in the Presidency unless the application for that purpose shall be made within six months after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

XXVI. If any letters of administration which shall be granted to the Administrator General in pursuance of this Act shall be revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate. Provided that, in any such case, when the deceased has left a Will appointing an executor, and probate of the Will has been granted by any Court in the Presidency to such executor within three months after the death, or when the widow or next-of-kin has, within one month if resident within the Presidency, or within three months if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and effects of the deceased, then and in either of such cases the Administrator General shall (without prejudice to the provisions contained in Sections 17 and 18 of this Act) not be entitled to receive or retain any commission out of any assets belonging to such estate and situate within the jurisdiction of the Court by which probate or administration shall have been granted as last aforesaid.

Exclusion of creditors who have not proved, from assets with which a dividend is made.

After one year from grant of administration, distribution of assets by Administrator General to be allowed against all claims of which he had no notice.

XXVII. Whenever the Administrator General shall declare a dividend among such creditors of the deceased as have proved their debts, and shall notify the payment of such dividend by advertisement in the official *Gazette*, no creditor of the deceased who shall not previously to such declaration and advertisement have proved his debt, shall be entitled to participate as such in the assets wherewith such dividend shall be made. Any payment or delivery of assets to any legatee or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment

or delivery: Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable: And provided also, that no notice of any debt or claim shall affect the Administrator General, unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice, and be prosecuted without unreasonable delay.

Person receiving payments liable to refund.

What to be notice of debt or claim.

XXVIII. All letters of administration which shall be granted to any Administrator General in virtue of his office shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters of administration shall relate.

Letters of administration to be granted to Administrator General in virtue of his office.

Authority given by such letters.

XXIX. Every probate which shall be granted to any Administrator General of a Will wherein he shall be named as executor by virtue of his office, shall be granted to him by his name of office, and shall authorize the Administrator General for the time being of the same Presidency to act as executor of the estate to which such probate shall relate.

Grant of probate to Administrator General named as executor by virtue of his office.

XXX. It shall be lawful for any private executor or administrator, with the previous consent of the Administrator General of the Presidency in which the property comprised in the probate or letters of administration is situate, by an instrument in writing under his hand, bearing a stamp of ten rupees and notified in the local *Gazette*, to transfer all estates, effects and interests vested in him by virtue of such probate or letters to the Administrator General by his name of office; and thereupon the transferer shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer; and the Administrator General for the time being shall have the rights and be subject to the liabilities which he would have had, and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid. Nothing herein contained shall be taken to exempt any such transferer from liability for acts and omissions in respect of the said property prior to the transfer.

Transfer by private executor or administrator of interest under probate or letters of administration.

XXXI. All estates, effects and interests which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration, probates or transfers as aforesaid shall, upon every such death, resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto. All books, papers and documents kept by such Administrator General by virtue of his office or as such executor or transferee as aforesaid, shall be transferred to and vested in his successor in office.

Vesting of estates, &c., in successor of Administrator General.

(b).—Suits by and against the Administrator General.

XXXII. All suits or other proceedings which shall be commenced by or against any administrator General in his representative character, may be brought by or against him by his name of office, and no suit or other proceedings already commenced or which shall be commenced by or against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued by or against his successor immediately upon his appointment, in the same manner as if no such death, resignation or removal had occurred: Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Administrator General to sue and be sued in his representative capacity by his name of office.

Suit not to abate by death, &c.

Proviso as to costs.

XXXIII. If any suit shall be brought by a creditor against any Administrator General in his representative character, the plaintiff shall be liable to pay the costs of the suit and shall not be entitled to have the decree (if any) in such suit enforced, unless upon proof by affidavit or otherwise that not less than one calendar month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the circumstances of the case, the Administrator General was reasonably entitled to require, and that the Administrator General had refused or neglected to register the claim according to the practice of his office. If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased *pari passu* with the other creditors.

Creditor's suits against Administrator General.

(c).—Grant of Certificates by the Administrator General.

In what case Administrator General may grant certificate.

XXXIV. Whenever any person, not being a Hindú, Muhammadan or Buddhist, or exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left moveable assets within any of the said Presidencies, and the Administrator General of such Presidency shall be satisfied that such assets do not exceed in the whole one thousand rupees in value, he may, after the lapse of one month from the death if he shall think fit, or before the lapse of the said month if he shall be requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person claiming otherwise than as a creditor to be entitled to a share of such effects, certificates under his hand entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole one thousand rupees: Provided that no certificate shall be granted under this Section where probate of the deceased's Will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings' Bank.

No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings' Bank.

Grant of certificate to creditors.

XXXV. If in cases falling within Section 34 of this Act, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased shall, within three months, obtain a certificate from the Administrator General under the same Section, or letters of administration to the estate and effects of the deceased, the Administrator General may administer the estate without letters of administration, in the same manner as if such letters of administration had been granted to him; and if he shall neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased, and such certificate shall have the same effect as a certificate granted under the provisions of the same Section, and shall be subject to all the provisions of this Act which are applicable to such certificate: Provided that the Administrator General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

Proviso.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

XXXVI. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath or solemn affirmation of the claimant (which oath or affirmation the Administrator General is hereby authorized to administer or take), or by such other evidence as he shall require.

Copy of certificate with receipts annexed, when signed by certificate-holder, to be a discharge.

Right of executor or administrator against certificate-holder.

Right of creditor against assets in hands of certificate-holder.

XXXVII. A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted, be a full discharge for payment or delivery to him of the money or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall preclude any executor or administrator of the deceased from recovering, from the person receiving the same, the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration. And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

XXXVIII. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded one thousand rupees.

Fee for certificate.

XXXIX. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

(d).—Expenses of the Administrator General's Establishment.

Administrator General to defray expenses of establishment, and all other charges not expressly provided for

XL. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

(e).—Accounts and Schedules.

XLI. The Administrator General of each of the said Presidencies shall enter into books to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things as shall come to his hands, or to the hands of any person employed by him or in trust for him under this Act; and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively. Such books shall be kept in the Administrator General's office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be from time to time fixed by the Government and published in the official *Gazette* of the Presidency to which the same may relate.

Administrator General to keep separate account for each estate to be open to inspection on payment of fee.

XLII. The Administrator General of each of the said Presidencies shall twice in every year, that is to say, on or before the first day of April, and on or before the first day of October, or on such other days as the Government shall, by any rules or orders to be published as aforesaid, direct, exhibit and deliver, in the High Court at Calcutta, Madras or Bombay, as the case may be, a true schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances, during the period of six months ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period; and also a true schedule of all administrations whereof the final balances shall have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances and the persons to whom paid. Such schedules shall be filed of record in such High Court, and shall, within fourteen days afterwards, be published in the official *Gazette* of the Presidency by the said Administrator General; and copies thereof in triplicate shall be delivered by such Administrator General to the Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit so to do, order the same to be deposited at the Indian Office for public inspection, and may cause notices to be published in the *London Gazette* and other leading newspapers, that such schedules are open to inspection there, or may make such other orders respecting the same as he may think fit.

Administrator General to furnish half-yearly schedules.

Schedules to be filed and published.

PART IV.

Of the Audit of the Administrator General's Accounts.

XLIII. The Government shall from time to time appoint auditors to examine the accounts of the Administrator General at the times of the delivery of the said schedules, and also at any other time when the Government shall think fit.

Government to appoint auditors.

XLIV. The auditors shall examine the schedules and accounts, and report to the Government whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as thereinafter mentioned shall be, directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine schedule, and report to Government.

XLV. Every auditor shall have power to summon as well the Administrator General as any other person whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General or other person if he shall think fit, on oath or solemn affirmation to be by him administered; and to call for all books, papers, vouchers and documents, which shall appear to him to be necessary for the purposes of the said reference. If the Administrator General or other person when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document so required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the auditors shall certify such neglect or refusal in writing to the High Court at the Presidency town; and every person so refusing or neglecting shall thereupon be punishable in like manner as if such refusal or neglect had been in contempt of the said High Court.

Auditors to have power to summon witnesses and to call for books, &c.

Penalty for non-attendance.

XLVI. The costs and expenses of preparing and publishing the said schedules and copies thereof, and of every such reference and examination as aforesaid, shall

Costs of preparing schedules, &c., how to be paid.

be defrayed by all the estates to which such schedules or accounts shall relate. Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

Auditors to report specially to Government if accounts appear not correct.

XLVII. If upon any such reference and examination the auditors shall see reason to believe that the said schedules do not contain a true and correct account of the matters therein contained or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act or of any such rules and orders, they shall report accordingly to the Government.

Proceedings upon such report.

XLVIII. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon if he shall think fit, proceed summarily against the defaulter or his executor or administrator in the High Court in the Presidency town, by petition for an account or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued under the provisions of the Code of Civil Procedure for his examination upon the said interrogatories. The Court shall have power upon any such petition to compel the attendance in Court of the defendant and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs of reference, &c., how to be defrayed.

XLIX. The costs, including those of the Advocate General and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant, the same shall be repaid to the estates by which they shall have been in the first instance contributed, and the Court may, if it shall think fit, order the defendant to receive his costs out of the said estates.

PART V.

Of the Commission of the Administrator General.

Commission to be received by Administrators General.

L. The Administrator General of each of the said Presidencies, under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a Will wherein he shall be named as executor by virtue of his office; or under any probates or letters of administration which are or shall be vested in him by Section 8 or Section 30 of this Act, shall be entitled to receive a commission at the following rates respectively, *viz* :—

The Administrator General of Bengal at the rate of three *per centum*, and the Administrators General of Madras and Bombay respectively at the rate of five *per centum*, upon the amount or value of the assets which they shall respectively collect and distribute in due course of Administration.

Section 50 not to apply to property of officers and soldiers dying on service, which shall come to hands of Administrator General.

Administrator General entitled to a commission of only three per cent, on gross amount of such property.

LI. The last preceding Section shall not apply to cases in which the property of an officer or soldier dying on service shall come to the hands of the Administrator General of any of the said Presidencies, under the ninth or the twelfth Section of the Statute called "The Regimental Debts' Act, 1863;" and such Administrator General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of the Administrator General's Act, 1865, if preferential charges as defined by the fourth Section of the said Statute have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges as the case may be.

What expenses, &c. commission is to cover.

How payable.

LII. The Administrator General shall be entitled to reimburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but save as aforesaid, the commission to which the Administrator General of each of the said three Presidencies shall be entitled is intended to cover, not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted that one-half of such commission shall be payable to and retained by such Administrator

General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who shall distribute any assets in the due course of administration, and may be retained by him upon such distribution. The amount of the commission lawfully retained by an Administrator General upon the distribution of assets, shall be deemed a distribution in the due course of administration within the meaning of this Act.

Commission retained to be deemed a distribution.

LIII. The Governor General of India in Council may from time to time order the rate of commission hereinbefore authorized to be received by the Administrator General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he shall collect and distribute in due course of administration and again to be reduced. The Governments of the Presidencies of Fort St. George and Bombay respectively may, with the sanction of the Governor General of India in Council, from time to time order the aforesaid rate of commission hereby authorized to be received by the Administrators General of Madras and Bombay respectively to be reduced and again to be raised: Provided that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator General of Bengal, Madras or Bombay shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

Commission of the Administrator General of Bengal may be raised and again reduced.

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

Proviso.

LIV. No person other than the Administrator General acting officially shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court or High Court of Judicature at Fort William in Bengal since the passing of Act No. VII of 1849 (*for the appointment of an Administrator General in Bengal*), or by either of the Supreme or High Courts of Judicature at Madras and Bombay since the passing of Act No. II of 1850 (*to amend and extend to Madras and Bombay Act No. VII of* 1849); or which have been or shall be granted by any Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act, 1865; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

Bequest in favour of executors not affected.

PART VI.

Miscellaneous.

LV. The Government shall have power from time to time to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the India Office of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may by such rules and orders amongst other things direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

Government may make and alter rules and orders consistent with this Act—

For custody of assets.

For remittance of money.

For guidance of Administrator General

Proviso as to rules in force.

LVI. Such orders shall be published in the *Gazette of India*, the Fort St. George *Gazette*, or the Bombay Government *Gazette*, as the case may be, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Publication of orders, &c.

LVII. Any order which shall be made under this Act by any Court shall have the same effect and be executed in the same manner as a decree.

Orders of the Court to have same effect, and to be executed in same manner, as a decree.

Penalty for false evidence.

LVIII. Whoever, having been sworn or having taken a solemn affirmation under this Act, shall upon any examination authorized by this Act, make a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Assets unclaimed for fifteen years to be transferred to Government.

LIX. All assets in the official charge of the Administrator General of any of the said Presidencies, and which now appear or shall hereafter appear from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of any of those Presidencies, or from the official books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be transferred and paid to the Controller General of Accounts or to the Accountant General to the Government of Fort St. George or Bombay, as the case may be, and be carried to the account and credit of the Government of India for the general purposes of Government; and the receipt of the said Controller General or Accountant General, as the case may be, shall be a full indemnity and discharge to the said Administrator General for any such transfer or payment: Provided that this Act shall not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit already instituted or which shall be hereafter instituted in respect thereof.

Proviso.

Mode of proceeding by claimant to recover principal money so transferred.

LX. If any claim shall be hereafter made to any part of the securities, monies or proceeds which shall be carried to the account or credit of the Government of India under the provisions of his Act, and if such claim shall be established to the satisfaction of the Controller General or the Accountant General to the Government of Fort St. George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to the credit and account of the said Government of India, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Controller General or Accountant General, as the case may be, the claimant may apply by petition to the High Court at the Presidency town against the Secretary of State for India, and after taking evidence either orally or on affidavit in a summary way as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, and such order shall be binding on all parties to the suit.

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.

LXI. Whenever any person, other than a Hindu, Muhammadan or Buddhist or a person exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall die leaving assets within the limits of the jurisdiction of a District Judge, it shall be the duty of the District Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge, or appointing an officer under the provisions of the Indian Succession Act, 1865, Section 239, to take and keep possession of the same until the Administrator General shall have obtained letters of administration, or until some other person shall have obtained such letters or a certificate from the Administrator General under the provisions of this Act, when the property shall be delivered over to the person obtaining such letters of administration or certificate, or, in the event of a Will being discovered, to the person who may obtain probate of the Will.

Act not to require administration of estates of soldiers, unless Administrator General authorised by Military Secretary or Committee of Adjustment.

LXII. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary to Government, or by a Committee of Adjustment or other officers or persons acting under any law for the time being in force relating to the payment of regimental debts; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in the service of Her Majesty in India, or of any Articles of War.

Indian Succession Act and Indian Companies' Act not to affect Administrator General.

LXIII. Nothing contained in the Indian Succession Act, 1865, or the Indian Companies' Act, 1866, shall be taken to supersede or affect the rights, duties and privileges of the Administrators General and officiating Administrators General of Bengal, Madras and Bombay respectively.

Power to appoint a Deputy Administrator General for the North-Western Provinces and the Panjab, Oudh and the Central Provinces.

LXIV. It shall be lawful for the Governor General of India in Council to appoint a Deputy Administrator General for all or any of the territories which are or shall for the time being be respectively under the Governments of the said Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administrations of the Chief Commissioners of Oudh and the Central Provinces; and the provisions contained in this Act as to the Administrator General of Bengal

shall apply to any Deputy Administrator General so appointed, save that in such case this Act shall be construed in the North Western Provinces, Oudh and the Central Provinces as if the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal, and in the Panjáb, as if the Chief Court of the Panjáb, were substituted for the High Court of Judicature at Fort William.

SCHEDULE.

(Repealed by Act XIV of 1870.)

ACT No. XXV OF 1867.

(Received the assent of the Governor General on the 22nd March 1867.)

1.—*Interpretation clause.*—"*Book.*"—"*British India.*"—"*Magistrate*"—*Number.*—*Gender.*—"*Local Government*"
2.—*Repeal of Act XI of* 1835
3.—*Every printed book or paper to bear name of printer and publisher.*
4.—*Keeper of printing presses to make declarations.*
5.—*Rules as to publication of printed periodicals containing public news.*
6.—*Authentication and deposit of declaration*—*Inspection and copies of declaration.*
7.—*Office copy of declaration to be "primâ facie" evidence.*
8.—*New declaration by persons who have signed a declaration and subsequently ceased to be printers or publishers.*
9.—*Three copies of books printed after this Act comes into force and of all subsequent editions, to be delivered to Government within a month.*
10.—*Receipt and payment for copies.*
11.—*Disposal of the three copies.*
12.—*Penalty for printing contrary to rule in Section* 3.
13.—*Penalty for keeping press without making declaration required by Section* 4.
14.—*Punishment for making false statement.*
15.—*Penalty for printing or publishing periodicals without conforming to rules.*
16.—*Penalty for non delivery of books*
17.—*Mode of recovering fines.*
18.—*Registration of memoranda of books.*
19.—*Publication of memoranda registered.*
20.—*Power to make rules.*
21.—*Power to exclude any class of books from operation of Act.*
22.—*Continuance of Act.*
23.—*Commencement of Act.*

An Act for the regulation of Printing Presses and Newspapers for the preservation of copies of books printed in British India and for the registration of such books.

WHEREAS it is expedient to provide for the regulation of printing-presses and of periodicals containing news, for the preservation of three copies of every book printed or lithographed in British India, and for the registration of such books; It is hereby enacted as follows:— Preamble.

PART I.

Preliminary.

I. In this Act—unless there shall be something repugnant in the subject or context— Interpretation clause.

"Book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed. "Book."

"British India."

"British India" means the territories which are or shall be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better government of India*) other than the Settlement of Prince of Wales' Island, Singapore and Malacca:

"Magistrate."

"Magistrate" means any person exercising the full powers of a Magistrate, and includes a Magistrate of Police and a Justice of the Peace:

Number. Gender.

Words in the singular include the plural, and *vice versâ*, words denoting the masculine gender include females:

"Local Government."

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorised by law to administer executive government in such part, and includes a Chief Commissioner.

Repeal of Act XI of 1865.

II. *Repealed by Act XIV of* 1870.

PART II.

Of Printing Presses and Newspapers.

Every printed book or paper to bear name of printer and publisher.

III. Every book or paper printed within British India, shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) of the publisher, and the place of publication.

Keeper of printing presses to make declarations.

IV. No person shall, within British India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the Magistrate within whose local jurisdiction such press may be:—

"I, *A. B.*, declare, that I have a press for printing at ——." And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

Rules as to publication of printed periodicals containing public news

V. No printed periodical work, containing public news or comments on public news, shall be published in British India, except in conformity with the rules hereinafter laid down.

(1.)—The printer and the publisher of every such periodical work shall appear before the Magistrate within whose local jurisdiction such work shall be published, and shall make and subscribe, in duplicate, the following declaration:—

"I, *A. B.*, declare, that I am the printer [*or* publisher, *or* printer and publisher] of the periodical work entitled ——, and printed [*or* published, *or* printed and published, *as the case may be*] *at* ——." And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted.

(2.)—As often as the place of printing or publication is changed, a new declaration shall be necessary.

(3.)—As often as the printer or the publisher who shall have made such declaration shall leave British India, a new declaration from a printer or publisher resident within the said territories shall be necessary.

Authentication and deposit of declaration.

VI. Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made. One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or other Court within the local limits of whose ordinary original civil jurisdiction the said declaration shall have been made. The officer in charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.

Inspection and copies of declaration.

Office copy of declaration to be *primâ facie* evidence.

VII. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custodyof such declarations, shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration.

New declaration by persons who have signed a declaration and subsequently ceased to be printers or publishers.—

VIII. Provided always, that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the periodical work mentioned in such declaration, may appear before any Magistrate, and make and subscribe in duplicate the following declaration:—

"I, *A. B.*, declare, that I have ceased to be the printer [*or* publisher, *or* printer and publisher] of the periodical work entitled ——."

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration. The officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees. In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.

PART III.

Delivery of Books.

Three copies of books printed after this Act comes into force and of all subsequent editions, to be delivered to Government within a month.

IX. Three printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any additions or alterations, whether the same shall be in letter-press or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Act shall come into force, shall within one calendar month after the day in which any such book shall first be delivered out of the press, and notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer, bound, sewed or stitched together, and upon the best paper on which the same shall be printed or lithographed, at such place and to such officer as the Local Government shall, by notification in the official *Gazette*, from time to time, direct. The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid. Nothing in the former part of this Section shall apply to any periodical work published in conformity with the rules laid down in Section 5 of this Act.

Receipt and payment for copies.

X. Such officer shall thereupon give a receipt in writing for the copies so received, and, if the book is for sale to the public, shall, on the publication thereof, pay the publisher for the same copies at the rate at which the book shall be *bonâ fide* sold for cash to the public.

Disposal of the three copies.

XI. One of such copies shall be transmitted to the Secretary of State for India, another copy shall be disposed of as the Governor General of India in Council shall from time to time, by general or special order, direct, and the remaining copy shall, after a memorandum containing the particulars hereinafter mentioned, respecting the book, shall have been registered as hereinafter provided, be deposited in such public library, or be otherwise disposed of, as the Local Government shall from time to time determine.

PART IV.

Penalties.

Penalty for printing contrary to rule in Section 3.

XII. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in Section 3 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, or by simple imprisonment for a term not exceeding two years, or by both.

Penalty for keeping press without making declaration required by Section 4.

XIII. Whoever shall keep in his possession any such press as aforesaid, without making such a declaration as is required by Section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, or by simple imprisonment for a term not exceeding two years, or by both.

Punishment for making false statement.

XIV. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, and imprisonment for a term not exceeding two years.

Penalty for printing or publishing periodicals without conforming to rules.

XV. Whoever shall print or publish any such periodical work as is hereinbefore described, without conforming to the rules hereinbefore laid down, or whoever shall print or publish, or shall cause to be printed or published, any such periodical work, knowing that the said rules have not been observed with respect to that work, shall, on conviction before a Magistrate, be punished with fine not exceeding five thousand rupees, or imprisonment for a term not exceeding two years, or both.

Penalty for non-delivery of books.

XVI. If any printer of any such book as is referred to in Section 9 of this Act, or of any second or subsequent edition of any such book, shall neglect to deliver three copies of the same pursuant to this Act, he shall for every such default forfeit, besides the value of the copies which he ought to have delivered, a sum not exceeding fifty rupees to be recovered by the said officer on conviction before a person exercising any of the powers of a Magistrate. If any publisher or other person employing any such printer shall neglect to supply him in manner aforesaid with the maps, prints or engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the provisions of the same Section, such publisher or other person shall, for every such default, forfeit, besides the value of the said maps, prints or engravings which he ought to have supplied, a sum not exceeding the said amount, and such sum shall be recovered in manner last aforesaid.

Mode of recovering fines.

XVII. All pecuniary penalties imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act for regulating the Police of such towns in force for the time being. All such penalties shall be disposed of as the Local Government shall from time to time direct.

PART V.

Registration of Books.

Registration of memoranda of books.

XVIII. There shall be kept at such office, and by such officer as the Local Government shall appoint in this behalf, a book to be called a Catalogue of Books printed in British India, wherein shall be registered a memorandum of every book which shall have been delivered pursuant to Section 9 of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars; (that is to say):—

(1.)—The title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language:

(2.)—The language in which the book is written:

(3.)—The name of the author, translator, or editor of the book or any part thereof:

(4.)—The subject:

(5.)—The place of printing and the place of publication:

(6.)—The name or firm of the printer and the name or firm of the publisher:

(7.)—The date of issue from the press or of the publication:

(8.)—The number of sheets, leaves, or pages:

(9.)—The size:

(10.)—The first second or other number of the edition:

(11.)—The number of copies of which the edition consists:

(12.)—Whether the book is printed or lithographed:

(13.)—The price at which the book is sold to the public; and

(14.)—The name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the copies thereof in manner aforesaid. Every registration under this Section shall, upon payment of the sum of two rupees to the officer keeping the said Catalogue, be deemed to be an entry in Book of Registry kept

under Act No. XX of 1847 *(for the encouragement of learning in the territories subject to the government of the East India Company, by defining and providing for the enforcement of the right called copyright therein)*; and the provisions contained in that Act as to the said Book of Registry shall apply, *mutatis mutandis*, to the said Catalogue.

XIX. The memoranda registered during each quarter in the said Catalogue shall be published in the local *Gazette*, as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State, and to the Secretary to the Government of India in the Home Department respectively. Publication of memoranda registered.

PART VI.

Miscellaneous.

XX. The Local Government shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local *Gazette*. Power to make rules.

XXI. The Governor General of India in Council may, by notification in the *Gazette of India*, exclude any class of books from the operation of the whole or any part or parts of this Act. Power to exclude any class of books from operation of Act.

XXII. Part III, and Section 16, and Part V of this Act shall remain in force until the Governor General of India in Council shall declare to the contrary by notification in the *Gazette of India*. Continuance of Act.

XXIII. *Repealed by Act XIV of* 1870. Commencement of Act.

ACT No. XXVI OF 1867.

(*Received the assent of the Governor General on the 22nd March* 1867.)

An Act to amend the law relating to Stamp Duties.

The whole of this Act has been repealed by Act VII of 1870 *except the words: "No Advocate of any High Court shall be required to file or present a Mookhtarnama or Wakalutnama, or any other document empowering him to act."*

ACT No. XXVII OF 1867.

(*Received the assent of the Governor General on the 22nd March* 1867.)

1.—*Deputy Commissioners empowered to distribute business in Courts subordinate to them.*

2.—*Nothing in Act to apply to Small Cause Courts.*

3.—*This Act to be read with Acts Nos. XIV and XIX of* 1865 *and XVIII of* 1867.

An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh, and the Jhánsí Division to distribute the business in subordinate Courts.

WHEREAS it is expedient to enable Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to direct the business in the Courts Preamble.

subordinate to them, respectively, to be distributed among such Courts in such way as the said Deputy Commissioners shall respectively think fit; It is hereby enacted as follows:—

Deputy Commissioners empowered to distribute business in Courts subordinate to them.

I. Notwithstanding anything contained in Act No. VIII of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*), Act No. XIV of 1865 (*to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces*), Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Panjáb and its dependencies*), or Act No. XVIII of 1867 (*to define the jurisdiction of the Courts of Civil Judicature in the Jhánsi Division*), every Deputy Commissioner in Oudh, the Central Provinces, the Panjáb and its dependencies and the Jhánsí Division, may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Nothing in Act to apply to Small Cause Courts.

II. Nothing in this Act shall apply to Courts of Small Causes.

This Act to be read with Acts Nos. XIV and XIX of 1865 and XVIII of 1867.

III. This Act shall in the Central Provinces be read with and taken as part of the said Act No. XIV of 1865; in the Panjáb and its dependencies, as part of the said Act No. XIX of 1865, and in the Jhánsí Division, as part of the said Act No XVIII of 1867.

ACT No. XXVIII OF 1867.

(Received the assent of the Governor General on the 22nd March 1867.)

1.—*Validity given to process, &c., signed by Magistrates in Petty Sessions.*
2.—*Sentences heretofore passed by Magistrates in Petty Sessions, to be valid.*
3.—*High Court may frame rules.*
4.—*Act may be extended.*

An Act to remove doubts as to the legality of certain sentences passed by tribunals, called Petty Sessions Courts, in the North-Western Provinces.

Preamble.

WHEREAS certain Magistrates in the North-Western Provinces of the Presidency of Fort William in Bengal have been used to sit together in certain places in the said Provinces as a Court of Petty Sessions and to pass sentences in that capacity: And whereas doubts have been raised as to the legality of such proceedings and sentences, and it is expedient to remove such doubts; It is hereby enacted as follows:—

Validity given to process, &c., signed by Magistrates in Petty Sessions.

I. When two or more persons authorized to exercise all or any of the powers of a Magistrate sit together for the despatch of business in any place in the said Provinces, any summons warrant or process or other proceeding, and any order, judgment, finding or sentence, signed by any two or more of them, shall be as valid to all intents and purposes as if it were solely signed, when the powers of one or more of them are higher than the powers of the others or other of them by such one of them as has, or by one of such of them as have, been invested under Section 23 of the Code of Criminal Procedure with the highest of such powers, or, when their powers are equal, by any one of them.

Sentence heretofore passed by Magistrates in Petty Sessions, to be valid.

II. All sentences heretofore passed by any Magistrates sitting together in any such place as aforesaid, shall be deemed to be as valid as if this Act had then been passed.

High Court may frame rules.

III. It shall be lawful for the High Court of Judicature for the said Province, to frame rules consistent with this Act and with the Code of Criminal Procedure for the conduct of business transacted by Magistrates sitting together in manner aforesaid, and from time to time to repeal, alter and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local *Gazette*.

Act may be extended.

IV. It shall be lawful for any Local Government, other than the Government of the North-Western Provinces, to extend, *mutatis mutandis*, the provisions of this Act to all or any part of the territories under its government.

ACT No. XXX OF 1867

(*Received the assent of the Governor General on the* 19*th June* 1867).

1.—*Power to transfer, for purposes of Currency Act, any town from one Presidency to another.*

2.—*This Act to be read with Act XIX of* 1861.

An Act to amend Act XIX of 1861 (to provide for a Government Paper Currency).

WHEREAS under Section 8 of Act XIX of 1861 (*to provide for a Government Paper Currency*), the promissory notes of the Government of India issued under that Act are payable only at the office or offices, or agencies of issue of the city or town from which they are severally issued, and at the Presidency town of the Presidency within which such city or town is situated: And whereas it is expedient to empower the Governor General of India in Council to declare that, for the purposes of the said Act, any such city or town other than a Presidency town shall be deemed to be situated within such Presidency as he shall from time to time declare by notification in the *Gazette of India*; It is hereby enacted as follows:— Preamble.

I. It shall be lawful for the Governor General of India in Council from time to time to declare, by notification in the *Gazette of India*, that any city or town (other than a Presidency town) from which promissory notes of the Government of India are or shall be issued under the said Act, shall, for the purposes of such Act, be deemed to be situated within such Presidency as shall be specified in that behalf in the said notification; and thereupon such city or town shall, for the purposes of the same Act, be deemed to be situated within the Presidency so specified. Power to transfer, for purposes of Currency Act, any town from one Presidency to another.

II. This Act shall be read with and taken as part of the said Act No. XIX of 1861. This Act to be read with Act XIX of 1861.

ACT No. XXXI OF 1867.

(*Received the assent of the Governor General on the* 26*th June* 1867).

1.—*Interpretation clause.*

2.—*Railway officers and servants to be "public servants" within meaning of Penal Code.*

3.—*"Government" to include a Railway Company.*

4.—*Short title.*

An Act to render penal certain offences committed by servants of Railway Companies.

WHEREAS it is expedient to extend certain provisions of the Indian Penal Code relating to public servants to persons in the employment of Railway Companies; It is hereby enacted as follows:— Preamble.

I. In this Act "Railway Company" means the proprietors for the time being of every railway or tramway situate in the territories vested in Her Majesty or Her Successors under the Statute 21 & 22 Vic., cap. 106 (*An Act for the better government of India*,) or (so far only as regards British subjects within the dominions hereinafter mentioned) situate in the dominions of Princes and States in the East Indies in alliance with Her Majesty or Her Successors, and the lessees, representatives and assigns of such proprietors. Interpretation clause.

II. Every officer and servant of a Railway Company shall be deemed a "public servant" within the meaning of Sections 161, 162, 163, 164 and 165 of the Indian Penal Code. Railway officers and servants to be "public servants" within meaning of Penal Code.

"Government" to include a Railway Company.

III. In the definition of legal remuneration contained in the said Section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a Railway Company.

Short title.

IV. This Act shall be called "The Railway Servants' Act, 1867."

ACT No. XXXII OF 1867.

(*Received the assent of the Governor General on the* 18*th July* 1867.)

1.—*Governor General in Council empowered to delegate to Chief Commissioners powers given to Local Government by Act of Governor General in Council.*
2.—*Short title.*

An Act to enable the Governor General of India in Council to delegate to a Chief Commissioner any power conferred on a local Government by an Act of the Governor General of India in Council.

Preamble.

WHEREAS it is expedient to enable the Governor General of India in Council to delegate to any of the Chief Commissioners of Oudh, the Central Provinces, and British Burmah, any power conferred on the Governor General in Council as the Local Government of the territories under the administration of such Commissioner by any Act of the said Governor General in Council; It is hereby enacted as follows:—

Governor General in Council empowered to delegate to Chief Commissioners powers given to Local Government by Act of Governor General in Council.

I. It shall be lawful for the Governor General of India in Council, by a Notification published in the *Gazette of India*, to delegate to the Chief Commissioner of Oudh, the Central Provinces, or British Burmah, as the case may be, all or any of the powers heretofore or hereafter conferred by any Act of the Governor General of India in Council on the Governor General of India in Council as the Local Government of the territories under the administration of such Chief Commissioner; and all acts done by the Chief Commissioner, to whom any such power shall have been delegated as aforesaid, in exercise of the same power, shall be as valid as if they had been done by the said Governor General in Council.

Short title.

II. This Act may be called "The Chief Commissioners' Powers' Act."

ACT No. XXXIII OF 1867.

(*Received the assent of the Governor General on the* 18*th July* 1867).

1.—*Amendment of Act XXXI of* 1861, *Section* 6.

An Act to amend Act No. XXXI of 1861.

Preamble.

WHEREAS it is expedient to amend Act No. XXXI of 1861 (*to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof*); It is hereby enacted as follows:—

Amendment of Act XXXI of 1861, Section 6.

1. Section 6 of the said Act shall be read as if for the words "fine of rupees five hundred," the following were substituted (that is to say) "fine not exceeding rupees five hundred."

ACT No. XXXVII OF 1867.

(*Received the assent of the Governor General on the 3rd October* 1867).

1.—*Financial Commissioner may prepare and send list of appeals for transfer.*

2.—*Procedure of Judicial Commissioner in cases transferred.*

3.—*Hearing before Financial and Judicial Commissioners sitting together.*

4.—*Provision for difference of opinion.*

5.—*Decree contingent on result of reference to High Court, North-Western Provinces.*

6.—*Referred cases to be heard by three Judges.*

7.—*Appearance of parties on reference.*

8.—*Costs of reference.*

9.—*Decision of points arising in Criminal cases before Judicial Commissioner.*

An Act for transferring appeals from the Court of the Financial to the Court of the Judicial Commissioner of Oudh, and for other purposes.

Preamble.

WHEREAS it is expedient to enable appeals to be transferred from time to time from the Court of the Financial Commissioner of Oudh to the Court of the Judicial Commissioner of that province; and whereas it is also expedient to provide for the decision of certain questions arising before either of such Commissioners by a Court composed of both of them; it is hereby enacted as follows:—

I.—Transfer of Appeals by Financial Commissioner.

Financial Commissioner may prepare and send list of appeals for transfer.

I. Whenever the state of business in the Court of the Financial Commissioner of Oudh is such that he cannot dispose of the same with reasonable despatch, he may cause a list of the appeals, whether regular or special, which he may wish to transfer for decision to the Court of the Judicial Commissioner of Oudh, to be prepared and sent to the Chief Commissioner of Oudh, and such Chief Commissioner may, if he think fit, order all or any of such appeals to be transferred accordingly.

Procedure of Judicial Commissioner in cases transferred.

II. In all appeals so transferred, the said Judicial Commissioner shall proceed as if they had been originally presented in his Court; and his orders thereon shall have the same effect to all intents and purposes as if they had been made by the said Financial Commissioner.

II.—Appeals before Financial and Judicial Commissioners.

Hearing before Financial and Judicial Commissioners sitting together.

III. Whenever any appeal, whether regular or special, shall have come before the said Financial Commissioner or the said Judicial Commissioner, if the Commissioner before whom such appeal shall have come desires to obtain the opinion of the other Commissioner on any question of fact or of law arising on such appeal, he may record a memorandum to that effect, and on receipt of a copy of such memorandum, the other Commissioner shall sit, as soon as may be practicable, with the Commissioner recording the memorandum, in the Court of such Commissioner, and assist in disposing of the said question, subject to the provisions hereinafter contained.

Reference to High Court.

Provision for difference of opinion.

IV. In case there shall be a difference of opinion between the two Commissioners, the following course shall be pursued (that is to say):—

(1.)—If the difference of opinion be on any question of fact in the finding of the lower Court, the finding shall be upheld;

(2.)—If the difference of opinion be on a point of law or of usage having the force of law, the ruling of the lower Court shall be upheld, unless one of the Commissioners shall be of opinion that the point should be referred to the High Court of Judicature of the North-Western Provinces of the Presidency of Bengal, in which case the Commissioners shall state the point as to which they differ, and forward the statement with their respective opinions thereon to such High Court.

Decree contingent on result of reference to High Court, North-Western Provinces.

V. The Commissioners may proceed in the case notwithstanding such reference, and may pass a decree contingent on the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of such opinion.

Referred cases to be heard by three Judges.

VI. Cases referred under this Act shall be heard by three Judges of the said High Court, and shall be determined according to the opinion of the majority of such Judges.

Appearance of parties on reference.

VII. The parties to such cases may appear, plead and act in the said High Court in person or by an Advocate or Vakil of such High Court; and the High Court, when it shall have heard and considered the case, shall transmit a copy of its opinion, under the seal of the Court and the signature of the proper officer, to the Commissioners making the reference.

Costs of reference.

VIII. Costs, if any, consequent on such reference, shall be costs in the suit.

Points arising in Criminal Cases.

Decision of points arising in Criminal cases before Judicial Commissioner.

IX. Whenever any appeal shall have been presented to the said Judicial Commissioner under the Code of Criminal Procedure;

Or whenever any sentence of death shall have been referred to him for confirmation;

Or whenever any case shall have come before him as a Court of revision;

If he desires to obtain the opinion of the said Financial Commissioner on any question of fact or of law arising on such appeal, reference, or case,

The provisions contained in Sections three, four, five, six and seven of this Act shall, *mutatis mutandis*, apply:

Provided that, if there be a difference of opinion on any question of fact, the case may, but if the difference involve the confirmation, commutation or reversal of a sentence of death or of transportation, the case shall be referred in manner aforesaid to the said High Court.

ACT No. I OF 1868.

(Received the assent of the Governor-General on the 3rd January 1868.)

An Act for shortening the language used in Acts of the Governor-General of India in Council, and for other purposes.

1. *Short title.*
2. *Interpretation-clause. Gender. Number. "Person." "Year" and "Month." "Immoveable property." "Moveable property." "Her Majesty." "British India." "Government of India." "Local Government." "High Court." "District Judge." "Magistrate." "Barrister." "Section." "Will." "Oath," "swear," and "affidavit." "Imprisonment." "Son." "Father."*
3. *Revival of repealed enactments. Commencement of time. Termination of time. Official chiefs and subordinates. Successors. Substitution of functionaries.*
4. *Duty may be taken* pro ratâ.
5. *Recovery of fines.*
6. *Matters done under an enactment before its repeal to be unaffected.*
7. *Judicial notice to be taken of Acts.*
8. *Recital to be* primâ facie *evidence of truth of fact recited.*

WHEREAS it is expedient to shorten the language used in Acts made by the Governor-General of India in Council, and to make certain provisions relating to such Acts; It is hereby enacted as follows:— Preamble.

I. This Act may be cited as "The General Clauses' Act, 1868." Short title.

II. In this Act and in all Acts made by the Governor-General of India in Council after this Act shall have come into operation,—unless there be something repugnant in the subject or context,— Interpretation clause.

(1.) Words importing the masculine gender shall be taken to include females. Gender.

(2.) Words in the singular shall include the plural, and *vice versâ;* Number.

(3.) "Person" shall include any company, or association, or body of individuals, whether incorporated or not; "Person."

(4.) "Year" and "month" shall respectively mean a year and month reckoned according to the British calendar; "Year" and "month."

(5.) "Immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth; Immoveable property."

(6.) "Moveable property" shall mean property of every description, except immoveable property; "Moveable property."

(7.) "Her Majesty" shall include Her heirs and successors to the Crown; "Her Majesty."

(8.) "British India" shall mean the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vic., cap. 106 *(An Act for the better government of India)*, other than the Settlement of Prince of Wales' Island, Singapore, and Malacca; "British India."

(9.) "Government of India" shall denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him respectively; "Government of India."

(10.) "Local Government" shall mean the person authorized by law to administer executive government in the part of British India in which the Act containing such expression shall operate, and shall include a Chief Commissioner; "Local Government."

(11.) "High Court" shall mean the highest Civil Court of appeal in such part; "High Court."

(12.) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction; but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction; "District Judge."

(13.) "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure; "Magistrate."

(14.) "Barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland; "Barrister."

(15.) "Section" shall denote a section of the Act in which the word occurs; "Section."

"Will."

(16.) "Will" shall include a codicil and every writing making a voluntary posthumous distribution of property;

"Oath," "swear," "affidavit."

(17.) "Oath," "swear," and "affidavit," shall include affirmation, declaration, affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

"Imprisonment."

(18.) "Imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code.

"Son." "Father."

(19.) And in the case of any one whose personal law permits adoption, "son" shall include an adopted son; and "father" an adoptive father.

III. In all Acts made by the Governor-General of India in Council after this Act shall have come into operation:—

Revival of repealed enactments

(1.) For the purpose of reviving, either wholly or partially, a Statute, Act, or Regulation repealed; it shall be necessary expressly to state such purpose;

Commencement of time.

(2.) For the purpose of excluding the first in a series of days or any other period of time, it shall be sufficient to use the word "from;"

Termination of time.

(3.) For the purpose of including the last in a series of days or any other period of time, it shall be sufficient to use the word "to;"

Official chiefs and subordinates.

(4.) For the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior;

Successors.

(5.) For the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations; and

Substitution of functionaries.

(6.) For the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

Duty may be taken *pro rata*.

IV. Whenever by any Act or Regulation now in force, or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure, or value of any goods or merchandize, a like duty shall be leviable according to the same rate on any greater or less quantity.

Recovery of fines.

V. *The provisions of sections 63 to 70, both inclusive, of the Indian Penal Code, and of section 61 of the Code of Criminal Procedure, shall apply to all fines imposed under the authority of any Act hereafter to be passed, unless such Act shall contain an express provision to the contrary.*

Matters done under an enactment before its repeal to be unaffected.

VI. The repeal of any Statute, Act, or Regulation, shall not affect anything done or any offence committed, or any fine or penalty incurred, or any proceedings commenced before the repealing Act shall have come into operation.

Judicial notice to be taken of Acts.

VII. All Courts of Justice, whether exercising civil or any other jurisdiction, and all persons having by law or consent of parties authority to receive evidence, shall take judicial notice of all Acts and Regulations heretofore made, or hereafter to be made, by the Governor-General of India in Council, the Governor of Madras in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal in Council, or by the like authority in other parts of British India, whether the same be of a public or of a private nature.

Recital to be *primâ facie* evidence of truth of fact recited.

VIII. Any recital contained in any Act of the Governor-General of India in Council heretofore made, or hereafter to be made, shall be deemed by all such Courts and persons to be *primâ facie* evidence of the truth of the fact recited.

ACT No. III. OF 1868.

(Received the assent of the Governor-General on the 7th February 1868.)

An Act to authorize the Local Government of the Punjab to invest any person with the powers of an Assistant Commissioner or Tahsíldár.

1. *The Local Government may invest persons with certain powers.*
2. *Decision of Court consisting of persons exercising powers under the Act.*
3. *Saving of passed decrees.*
4. *Extent of Act.*

I. The Local Government may, by notification in the official *Gazette*, invest any person with the powers of an Assistant Commissioner with full powers, or of an Assistant Commissioner with special powers, or of an Assistant Commissioner with ordinary powers, or of a Tahsíldár, as described in Act No. XIX of 1865, within such local limits as it may think proper, and may from time to time withdraw any of such powers.

The Local Government may invest persons with certain powers.

The Local Government may also, by such notification as aforesaid, direct that any of the powers conferred under this Act shall be exercised only with reference to such class of suits as may be specified in the notification.

II. When any of the powers conferred under this Act shall be exercised by three or more persons sitting together as a Court, and each invested with the same powers, the decision of the majority of such persons shall be deemed to be the decision of the Court.

Decision of Court consisting of persons exercising powers under the Act.

III. *Repealed by Act XIV of* 1870.

IV. This Act shall extend only to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab.

Extent of Act.

ACT VI OF 1868.

(Received the assent of the Governor-General on the 20*th March* 1868.*)*

An Act to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes.

1. *Short title.*
2. *Interpretation-clause, "Committee." "Municipality." "Lieutenant-Governor."*
3. *Power to extend Act.*
4. *Power to define limits of places to which Act extends.*
5. *Existing Committees to be deemed Committees under this Act.*
6. *Committees appointed by Lieutenant-Governor or election. Removal of members. Ex-officio members.*
7. *Appointment of president and vice-president. Appointment of secretary. Notification of appointments.*
8. *Committee to have an office.*
9. *Chairman at meetings. Quorum. Dissolution. Adjournment. Voting. Casting vote. Publication of proceedings.*
10. *Correspondence between Committee and local Government.*
11. *Power to make assessments and levy taxes.*
12. *Taxes to be confirmed. Rules for confirmation and collection of taxes.*
13. *No rate invalid for defect of form.*
14. *Power of Committees to make rules.*
15. *Enforcement of rules and regulations.*
16. *Power to make bye-laws as to nuisances, and registration of births, marriages, and deaths.*
17. *Confirmation of bye-laws. Publication of bye-laws.*
18. *Power to prohibit repetition or continuance of nuisances.*
19. *Power to remove nuisances.*
20. *Power to buy and sell land for purposes of Act. Receipts.*
21. *Cancellation and suspension of proceedings of Committee. Abolition of taxes.*
22. *Municipal Fund.*
23. *Custody and disbursement of Municipal Fund.*
24. *Duties of Committees. Contracts.*
25. *Provision for police.*
26. *Police to aid in carrying out orders regarding nuisances.*
27. *Annual Reports and statements to be submitted.*
28. *Right of Committee in public highways.*
29. *Land required for municipal purposes may be taken up under Act No. VI of* 1857.

30. *Suits by and against Committees. Members not personally liable for contracts made by Committee. Liability of members for breach of trust.*
31. *Notice previous to suing Committee or their officers.*
32. *Penalty on member or servant of a Committee being interested in contracts made with Committee.*
33. *Penalty for infringement of bye-laws or non-payment of fines.*
34. *Prosecutions.*
35. *Recovery of taxes.*

Preamble.

WHEREAS it is expedient to make better provision for the appointment of Municipal Committees in the North-Western Provinces of the Presidency of Fort William, and for the police, conservancy and local improvements, and for education, and for the levying of rates and taxes in the places to which this Act may be extended ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title.

I. This Act may be called "The Municipal Improvements' (North-Western Provinces) Act, 1868."

Interpretation clause.

II. In this Act, unless there be something repugnant in the subject or context—

"Committee."

"Committee" means a Municipal Committee appointed under the provisions of this Act ;

"Municipality."

"Municipality" means any town or towns to which this Act may be extended ;

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor of the said Provinces.

Power to extend Act.

III. The Lieutenant-Governor may extend this Act, by notification in the local official Gazette, to any town or towns in the territories under his Government.

Power to define limits of places to which Act extends.

IV. For the purposes of this Act, the Lieutenant-Governor may from time to time, by notification in the local official *Gazette*, define the limits of any town, and may include within the limits of such town any Railway station, village, building, or land in the vicinity :

Provided that no cantonment shall, without the previous consent of the Governor-General of India in Council, be deemed to be a town for the purposes of this Act.

The Lieutenant-Governor may from time to time, by notification in the local official *Gazette*, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the Municipality so formed shall be designated.

Existing Committees to be deemed Committees under this Act.

V. All Municipal Committees hitherto appointed under the orders of the Lieutenant-Governor shall be deemed Committees under this Act, and shall continue in office until a Committee shall have been appointed or elected under section six.

Act No. XXVI of 1850, *(to enable improvements to be made in towns)* shall cease to have effect in the towns into which it has been introduced, except as to any act done or liability incurred under it :

Provided that all rules made and taxes imposed under Act No. XXVI of 1850, which have been approved by the Lieutenant-Governor, shall continue in force and recoverable as if they had been made and imposed under the provisions of this Act.

PART II

APPOINTMENT OF MUNICIPAL COMMITTEES.

Committee appointed by Lieutenant-Governor or election.

VI. In any Municipality to which this Act shall have been extended, the Lieutenant-Governor may appoint or direct to be appointed by election, for such period not exceeding two years as to him may seem fit, any number of the inhabitants of such Municipality, to be members of a Committee for carrying out the purposes of the Act.

The persons so appointed shall continue in office for two years or until their successors shall have been appointed, and shall be eligible for re-appointment.

In cases when the Lieutenant-Governor directs the appointment to be by election, he may fix the time and manner of the election and the qualification of the electors, and generally may make such rules as he shall think fit for regulating the election.

Removal of members.

The Lieutenant-Governor may from time to time remove any of the members of the Committee so appointed, who shall desire to be discharged, or refuse or become incapable to act, or be convicted of an offence punishable under the Indian Penal Code with imprisonment for a term of not less than six months. The

Lieutenant-Governor may also, if he think fit, on the recommendation of the Committee, add to their number, and fill up vacancies occurring among them.

Every member so appointed shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for re-appointment, as if he had been originally appointed a member under the first clause of this section.

Ex-officio members.

In addition to the members appointed as aforesaid, the Lieutenant-Governor shall have power to appoint, by notification in the official *Gazette*, ex-officio members of the Committee for every place in which they exercise their offices, and to which this Act shall have been extended :

Provided that the number of such ex-officio members shall not be more than one-third of the total number of the Committee.

Appointment of president and vice-president.

VII. The Lieutenant-Governor may also appoint the president and vice-president, or either of them, of any Committee, or sanction the election by any Committee of one of their members as president or as vice-president.

Appointment of secretary.

The Committee may appoint any one of their members or any other person to be their secretary.

Notification of appointment.

All appointments made under this section shall be notified in the local official *Gazette*.

PART III.

OFFICE AND MEETINGS OF COMMITTEES.

Committee to have an office.

VIII. The Committee shall have an office, where they shall meet for the transaction of business at least once in every month.

Chairman at meetings.

IX. The president, or in his absence the vice-president, shall take the chair at every meeting of the Committee. In the absence of both the president and vice-president, the members present may elect a chairman for the occasion.

The meetings shall be either general or special.

The president or vice-president may, whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-fifth in number of the members, convene a meeting.

Notice shall be given of every such meeting, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state the general nature of the business to be transacted at the meeting proposed to be called.

Quorum.

The quorum necessary for the transaction of business at a general meeting shall be three.

The quorum necessary for the transaction of business at a special meeting shall be one-half of the total number of members at the time of the meeting ; and at least two-thirds of such quorum shall consist of non-official members.

Dissolution.

If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if summoned by the president or vice-president, shall be dissolved.

Adjournment.

In any other case it shall stand adjourned to the same day in the next week at the same time and place. And if at such adjourned meeting a quorum is not present, it shall be adjourned *sine diè*.

All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting.

Voting.

All questions which may come before the Committee at any meetings shall be decided by a majority of votes. Every member shall have one vote.

Casting vote.

In case of equality of votes, the chairman shall have a casting vote.

Publication of proceedings.

Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local English or vernacular newspaper, or in such other manner as the Lieutenant-Governor may from time to time direct.

Correspondence between Committee and Local Government.

X. All correspondence between the Committee and the Local Government shall pass through the Commissioner of the Division.

The Commissioner of the Division shall be entitled to make such suggestions for the consideration of the Committee as he may deem fit ; and the Committee shall furnish him with any information he may call for, connected with the duties imposed upon them by this Act.

PART IV.

POWERS OF COMMITTEES.

Power to make assessment and levy taxes.

XI. The Committee may, at a special meeting, define the persons or property within the Municipality to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed.

If such taxes receive the sanction of the Lieutenant-Governor, but not otherwise, the Committee may, at a special meeting, impose them accordingly.

The Committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

Such taxes may be all or any of the following :—

(1.)—A tax on houses, buildings, and lands, according to the annual value thereof, not exceeding seven and a half per cent. of such value ;

(2.)—A tax on professions and trades ;

(3.)—Taxes on carriages, horses, mules, elephants, camels, bullocks, and asses ;

(4.)—Tolls on carriages, carts, and animals entering the limits of the Municipality ;

(5.)—An octroi on articles brought within the said limits for consumption or use therein : Provided that a list of such articles shall have been submitted to and approved by the Lieutenant-Governor : Provided, also, that the Lieutenant-Governor shall have power to exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

No other species of tax shall be imposed without the previous sanction of the Governor-General of India in Council.

Taxes to be confirmed.

XII. No tax shall be collected until it shall have been confirmed by such persons and in such manner as the Lieutenant-Governor shall appoint.

Rules for confirmation and collection of taxes.

The Lieutenant-Governor may from time to time make rules as to the persons by whom and the manner in which any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes.

The Lieutenant-Governor may from time to time repeal, alter, or add to such rules.

No rate invalid for defect of form.

XIII. No rate on property made under this Act shall be invalid for defect of form, and it shall be enough, in any such rate on property or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Rules and Bye-laws.

Power of Committees to make rules.

XIV. Every Committee may at a special meeting make rules consistent with this Act, for regulating the time and place of their meeting, the conduct of their business, the restricting of the amount or objects of expenditure under section twenty-four, the division of duties among the members of the Committee, the salaries, appointment, suspension, and removal of the officers and servants of the Committee, and other similar matters.

Enforcement of rules and regulations.

XV. The Committee may appoint one or more of their number to carry out their resolutions, and to enforce the rules and bye-laws made under the provisions of this Act for the protection of the public health, or they may appoint a special officer for such purposes.

Power to make bye-laws as to nuisances, and registration of births, marriages, and deaths.

XVI. The Committee may at a special meeting make bye-laws for defining, prohibiting, and removing nuisances, which are not public or common nuisances under the Indian Penal Code, or under Act No. V of 1861 *(for the regulation of Police)*, and for the securing of a proper registration of births, marriages, and deaths, and for carrying out all or any of the purposes of this Act.

The Committee may from time to time, at a special meeting, repeal, alter, or add to such bye-laws.

Confirmation of bye-laws.

XVII. No bye-law and no alteration or repeal of, or addition to, a bye-law shall have effect until it shall have been confirmed by the Lieutenant-Governor.

Publication of bye-laws.

All bye-laws made under this Act, and all rules made under section fourteen, and all alterations and repeals of, and additions to, such bye-laws and rules, shall be published for such length of time and in such manner as the Lieutenant-Governor shall from time to time direct.

Nuisances.

Power to prohibit repetition or continuance of nuisances.

XVIII. Every Committee may enjoin within the limits of the Municipality any person not to repeat or continue a public nuisance. Every such injunction shall be deemed to have been made by a public servant.

Power to remove nuisances.

XIX. Every Committee which the Lieutenant-Governor shall authorize in this behalf, may, so long as such authorization continues, exercise the powers of a Magistrate of a District as described in section 308 of the Code of Criminal Procedure for the removal of nuisances, and in the exercise of such powers shall follow the procedure prescribed in Chapter XX of the same Code.

Purchase and Sale of Land.

XX. Any Committee may at a special meeting, and with the previous sanction of the Lieutenant-Governor, purchase land for the purposes of this Act, and may, at a like meeting and with the like sanction, sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the Committee. Power to buy and sell land for purposes of Act.

The receipt of the president and any two members of the Committee for any monies paid to them upon any such sale shall effectually discharge the persons paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or misapplication thereof, and the proceeds of any such sale shall be applied for the purposes of this Act. Receipts.

Controlling Power of Lieutenant-Governor.

XXI. The Lieutenant-Governor may by order cancel, suspend, or limit any of the acts, proceedings, or rules of any Committee. Cancellation and suspension of proceedings of Committee.

The Lieutenant-Governor may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of monies paid in respect of such tax. Abolition of taxes.

PART V.

RIGHTS, DUTIES, AND LIABILITIES OF COMMITTEES.

Municipal Fund.

XXII. All sums received by the Committee of any Municipality to which this Act extends, and all fines levied under this Act, and all receipts from property entrusted to and managed by the Committee, shall constitute a fund which shall be called the Municipal Fund of such Municipality, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act. Municipal fund.

XXIII. The funds of every Committee shall be kept in the Government Treasury of the District, or in the Bank (if any) to which the Government Treasury business shall have been made over. Custody and disbursement of Municipal Fund.

No disbursement of such funds or any part thereof shall be made except under the signature of the president or vice-president and one other member of the Committee.

XXIV. Every Committee, subject to such rules restricting the amount or the objects of expenditure as it shall make at a special meeting, and so far as the Municipal Fund at their disposal will permit, shall, after providing out of such fund for a police establishment in the manner hereinafter mentioned, keep the public streets, roads, drains, tanks, and water-courses of the Municipality for which they are appointed, clean and in repair; Duties of Committees.

And may cause such streets and roads or any of them to be watered and lighted;

And may construct and provide for the management of poor-houses, dispensaries, market-places, and other works of general utility;

And generally may do all acts and things necessary for the purposes of conservancy and local improvement.

The Committee may also make provision, by the establishment of new schools or the aiding of already existing schools, or otherwise, for the promotion of education in the Municipality for which such Committee is appointed.

Every contract made on behalf of any Committee in respect of any sum exceeding rupees twenty, or in respect of any property exceeding rupees twenty in value, shall be in writing, and shall be signed by the president or vice-president and at least two other members of the Committee, of whom one shall be an ex-officio member. Unless so executed, it shall not be binding on the Committee. Contracts.

Municipal Police.

XXV. Every Committee shall provide in the first place from its funds for the maintenance of the police establishment in the Municipality. Provision for police.

The municipal police shall be appointed under such Act of the Governor-General in Council as may be applicable to the town, and their number shall be fixed by the Committee in consultation with the Inspector-General of Police, subject to the final decision of the Lieutenant-Governor.

XXVI. Every officer of police in any Municipality to which this Act shall have been extended shall have power to take into custody, without a warrant, any person who, within his view, commits any of the offences mentioned in section 34 of Police to aid in carrying out orders regarding nuisances.

Act No. V of 1861 *(for the regulation of police)*, and shall be bound to carry out the orders issued by the Committee for the prohibition and prevention of public nuisances, or nuisances defined to be such by any bye-law made under this Act.

Annual Reports.

Annual reports and statements to be submitted.

XXVII. Every Committee shall annually, or oftener if directed by the Lieutenant-Governor to do so, submit statements of their receipts on account of and disbursements from the Municipal Fund, and also reports of all works executed or proceedings taken by them under the authority of this Act.

The Committee shall also submit, at such time and in such form as may be directed by the Lieutenant-Governor, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Lieutenant-Governor shall from time to time direct.

The Lieutenant-Governor may from time to time make rules consistent with this Act, as to the cost and the class of works which the Committee may execute, and the Committee shall be legally bound to obey such rules.

Public Highways.

Right of Committee in public highways.

XXVIII. All public highways in any Municipality in which this Act is in force, not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the Committee.

Land required for Public Purposes.

Land required for municipal purposes may be taken up under Act No. VI of 1857.

XXIX. When any land within the limits of any Municipality to which this Act is extended is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the Committee cannot agree with the owner for the purchase thereof, the Lieutenant-Governor, on the recommendation of the Committee, may notify in the local official *Gazette* that such land is required under the provisions of Act No. VI of 1857 *(for the acquisition of land for public purposes)*; and on payment by the Committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Suits by and against Committees.

Suits by and against Committees.

XXX. Every Committee shall sue and be sued in the name of their president.

Members not personally liable for contracts made by Committee.

No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts made in the manner above provided for.

Liability of members for breach of trust.

Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he shall have been a party, or which shall happen through or be facilitated by the neglect of his duty, and he shall be liable to be sued for the same in such Court as the Lieutenant-Governor shall direct as for money due to Government.

Notice previous to suing Committee or their officers.

XXXI. No suits shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the cause of the suit, and not afterwards.

If any person to whom any such notice of suit is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

PART VI.

Penalties and Prosecutions and Recovery of Taxes.

Penalty on member or servant of a Committee being interested in contracts made with Committee.

XXXII. No member of a Committee or servant of a Committee shall be interested directly or indirectly in any contract made with the Committee; and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of rupees five hundred:

Provided always that no person shall be disqualified from acting as a member or servant of a Committee by being a shareholder in or member of any incor-

porated or registered Company by reason of any contract entered into between such Company and the Committee.

XXXIII. Whoever infringes any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding rupees fifty, and in the case of a continuing infringement, to a fine not exceeding rupees five, for every day after notice from the Committee of such infringement. Penalty for infringement of bye-laws or non-payment of fines.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month ; and in any other case, to imprisonment for a term not exceeding eight days.

XXXIV. Prosecutions under this Act for infringements of rules or bye-laws may be instituted before any Magistrate by the Committee or any person authorized by the Committee in this behalf. Prosecutions.

XXXV. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in section 61 of the Code of Criminal Procedure. Recovery of taxes.

ACT No. VII of 1868.

(Received the assent of the Governor-General on the 27th March 1868.)

An Act to amend the law relating to Appeals and Reviews of Judgment in the Punjab.

1. *Short title.*
2. *Extent of Act. Commencement and continuance of Act.*
3. *Appeals when to lie.*
4. *Code of Civil Procedure to apply to appeals.*
5. *Second regular appeals.*
6. *Time for presenting appeal.*
7. *Confirmation of decision of lower Court.*
8. *Chief Court may remove appeals.*
9. *Review of judgment.*
10. *Pending suits.*

Preamble.

WHEREAS it is expedient to amend the law relating to appeals and reviews of judgment in the Courts established in the Punjab ; It is hereby enacted as follows :—

Short title.

I. This Act may be called "The Punjab Appeals' Act, 1868."

Extent of Act. Commencement and continuance of Act.

II. This Act shall extend only to the territories for the time being under the government of the Lieutenant-Governor of the Punjab. It shall come into operation from the thirtieth day of April 1868, in regard to all appeals preferred after that day, and shall continue in force to the thirtieth day of April 1873 :

Provided that, as to such appeals (if any) as shall before the day last mentioned have been preferred under the provisions herein contained, and shall not have been disposed of, this Act shall remain in force until such appeal shall have been disposed of as aforesaid.

Appeals when to lie.

III. Except when otherwise provided in this Act or any other Act in force for the time being, an appeal shall lie from the decrees of the Courts of original and appellate jurisdiction to the Courts authorized under Act No. XIX of 1865 (*The Punjab Courts' Act*) and IV of 1866 (*The Punjab Chief Court Act*) to hear appeals.

Code of Civil Procedure to apply to appeals.

IV. All appeals falling within the jurisdiction of the Courts established in conformity with the said Acts shall, save as in the said Acts and in this Act is otherwise provided, be regulated by the Code of Civil Procedure.

Second regular appeals.

V. If the decision of a Deputy Commissioner or of a Commissioner passed in regular appeal reverse or modify the decision of the Court of original jurisdiction on a point material to the merits of the case, the Commissioner, where the decision shall have been passed on regular appeal by the Deputy Commissioner, and the Chief Court where the decision shall have been passed on regular appeal by the Commissioner, may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the Courts below, a further consideration of the case appear to the Commissioner or the Chief Court (as the case may be) requisite for the ends of justice.

Time for presenting appeal.

VI. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, accompanied by copies of the judgments of the lower Courts, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, within sixty days if the appeal lie to the Court of a Deputy Commissioner or Commissioner, and within ninety days it the appeal lie to the Chief Court.

The period shall be reckoned from and exclusive of the day on which the judgment and decree appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the judgment and decree from which the appeal is made.

Confirmation of decision of lower Court.

VII. When a memorandum of appeal, or an application for the admission of a special appeal, has been registered, the Appellate Court may, if it sees fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the lower Court, without sending intimation of the appeal to such Court, and without issuing notice to the respondent.

Chief Court may remove appeals.

VIII. The Chief Court of the Punjab may, whenever it thinks proper to do so, either on the agreement of the parties to that effect or for purposes of justice, remove and try any appeal falling within the jurisdiction of any Court subject to its superintendence.

Review of judgment.

IX. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superior Court, or by a decree of a District or Divisional Court from which no regular or special appeal shall have been admitted by the Chief Court, or by a decree of the Chief Court from which either no appeal may have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council, and who, from the discovery of new matter or evidence which was not within his knowledge, or could not have been adduced by him at the time when such decree was passed, or from any other good or sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Civil Court which passed the decree, or by any Court to which the business of the former Court has been transferred.

Except as hereinbefore provided, the judgments of the Civil Courts established in conformity with the said Acts and with Act No. III of 1868 *(to authorize the Local Government of the Punjab to invest any person with the powers of an Assistant Commissioner or Tahsildár)* shall not be subject to revision.

Pending suits.

X. If in any suit pending when this Act comes into operation it appears to the Court that the application of its provisions would deprive any party to a suit of a right of appeal which, but for the passing of this Act, would have belonged to him, the Court shall proceed according to the law in force immediately before this Act takes effect.

ACT No. X of 1868.

(Received the assent of the Governor-General on the 2nd April 1868.)

An Act to amend the Consolidated Customs' Act.

1. *Amendment of Act No. VI of* 1863, *section* 132.
2. *Short title.*

Preamble.

WHEREAS section 132 of the Consolidated Customs' Act (No. VI of 1863) provides that no refund of duty levied upon goods not shipped or upon goods shipped and afterwards re-landed, shall be allowed, unless application to re-land shall have been made, or notice of non-shipment shall have been given, before the vessel on which such goods were intended to be shipped, or from which they were re-landed, shall have left the port; And whereas it is expedient to extend the time within which such application or notice may be made or given; It is hereby enacted as follows :—

I. For the proviso contained in the said section, the following shall be substituted :— Amendment of Act No. VI of 1863, section 132.

Provided that no such refund shall be allowed unless application to re-land shall have been made, or notice of non-shipment shall have been given, within three clear working days after the vessel on which such goods were intended to be shipped or from which they were re-landed shall have left the port.

II. This Act may be called the "Consolidated Customs' Act Amendment Act." Short title.

ACT No. XII OF 1868.

(Received the assent of the Governor-General on the 11th February 1868.)

An Act to empower the Governor-General of India in Council to suspend the operation of Section 17 of Act No. XI of 1841.

I. It shall be lawful for the Governor-General of India in Council, by notification in the *Gazette of India*, to suspend in any Military Cantonment beyond the limits of British India, the operation of section 17 of Act No. XI of 1841 *(for consolidating and amending the Regulations concerning Military Courts of Requests for Native officers and soldiers in the service of the East India Company)* from such day as shall be specified in the said notification until further notice, or to such other day as shall be specified in such notification. Power to suspend Act No. XI of 1841, section 17.

ACT No. XIII OF 1868.

(Received the assent of the Governor-General on the 11th April 1868.)

An Act to exempt the King of Oudh from the Jurisdiction of the Civil Courts, and for other purposes.

1. *Repeal of Act VIII of* 1862, *section* 4.
2. *No suits to be brought against the King of Oudh unless with consent of Government.*
3. *King of Oudh to be incapable of contracting.*
4. *Nothing in this Act to render Secretary of State or Government of India liable.*
5. *Short title. Commencement of Act.*

WHEREAS it is expedient to exempt the King of Oudh from the jurisdiction of the Civil Courts, and to render him incapable of entering into certain contracts; It is hereby enacted as follows :— Preamble.

I. *Repealed by Act XIV of* 1870.

II. No suit shall be commenced or prosecuted, and no writ or process shall at any time be sued for, against the person or property of His Majesty the King of Oudh, unless such suit shall be commenced, or such writ or process shall be sued for, with the consent of the Governor-General of India in Council first had and obtained. No suits to be brought against the King of Oudh unless with consent of Government.

Such consent shall be certified by the signature of one of the Secretaries to the Government of India, and every such signature shall be judicially noticed.

And any suit which at any time shall have been or shall be commenced, and any writ or process which at any time shall have been or shall be sued for, against the person or property of His said Majesty without such consent so certified as aforesaid, shall be null and void.

King of Oudh to be incapable of contracting.

III. His said Majesty shall be incapable of entering into any contract which may give rise to any pecuniary obligation on his part.

Nothing in this Act to render Secretary of State or Government of India liable.

IV. Nothing herein contained shall be deemed to render the Secretary of State for India in Council or the Government of India liable for any debt heretofore contracted by or on behalf of His said Majesty, or in respect of any claim to be reimbursed which may be made by any person supplying His said Majesty with necessaries.

Short title. Commencement of Act.

V. This Act may be called "The King of Oudh's Act, 1868," and shall come into operation on the first day of May 1868.

ACT No. XIV, OF 1868.

(*Received the assent of the Governor-General on the 17th April* 1868.)

An Act for the Prevention of certain Contagious Diseases.

1. *Short title.*
2. *Interpretation-clause. "Magistrate." "Contagious disease." "Brothel-keeper."*
3. *Extent of Act.*
4. *Punishment of unregistered prostitutes and brothel-keepers.*
5. *Local Government to make rules for registration, and appoint officers.*
6. *Change of residence.*
7. *Penalty for refusing to show evidence of registration.*
8. *Penalty for permitting unregistered prostitutes to resort to brothels. Proviso.*
9. *Brothel-keepers legally bound to furnish information.*
10. *Examination of prostitutes.*
11. *Local Government may make rules as to examinations. Reports. Penalty for disobeying rules.*
12. *Local Government may provide and certify hospitals. Control of such hospitals.*
13. *Regulations for management of hospitals.*
14. *Registered prostitutes, on receiving notice, to go to hospital. Penalty for neglect or refusal.*
15. *Detention of prostitutes under medical treatment.*
16. *Penaly for leaving hospital before discharge. Penalty for disobeying regulations of hospital.*
17. *Power to provide for out-door treatment of registered women.*
18. *Penalty for acting as a prostitute while under medical treatment.*
19. *Subsistence-allowance.*
20. *Penalty for residing in street or place after prohibition.*
21. *Removal of name from registry.*
22. *Institution of prosecutions.*
23. *Presumption as to signatures.*
24. *Service of notice.*
25. *Limitation of suits.*
26. *Power to make rules.*

Preamble.

WHEREAS it is expedient to provide for the better prevention of certain contagious diseases; It is hereby enacted as follows:—

Preliminary.

Short title.

I. This Act may be cited as "The Indian Contagious Diseases' Act, 1868."

Interpretation clause. "Magistrate."

II. In this Act—

"Magistrate" means any person exercising the powers of a Magistrate or of a Subordinate Magistrate of the first class, and includes a Magistrate of Police in a Presidency Town:

"Contagious disease." "Brothel keeper."

"Contagious disease" means any contagious venereal disease:

"Brothel-keeper" means the occupier of any house, room, or place to or in which women resort or are for the purpose of prostitution, and every person managing or assisting in the management of any such house, room, or place.

III. The places to which this Act applies shall be such places as the Local Government shall from time to time, with the previous sanction of the Governor-General of India in Council, specify by notification in the Official *Gazette*. The limits of such places shall, for the purposes of this Act, be such as are defined in the said notification, and may from time to time, with such sanction as aforesaid, be altered by a like notification.

Extent of Act.

Unregistered Prostitutes and Brothel-keepers.

IV. In any place to which this Act applies, no woman shall carry on the business of a common prostitute, and no person shall carry on the business of a brothel-keeper, without being registered under this Act at such place, and without having in her or his possession such evidence of registration as hereinafter provided.

Punishment of unregistered prostitutes add brothel-keepers.

Any woman carrying on the business of a common prostitute, and any person carrying on the business of a brothel-keeper, without having been registered as aforesaid, or without having in her or his possession such evidence as aforesaid, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one month, or with fine not exceeding one hundred rupees, or with both.

Registration of Prostitutes and Brothel-keepers.

V. The Local Government shall make rules for the registration of common prostitutes and of brothel-keepers, and shall appoint officers for the conduct of such registration, and may, with the previous sanction of the Governor-General of India in Council, assign salaries and establishments to the said officers. The Local Government shall also provide such books and forms as may be necessary for the purposes of this Act.

Local Government to make rules for registration, and appoint officers.

Every woman complying with such rules (so far as they relate to prostitutes), and every brothel-keeper complying with such rules (so far as they relate to brothel-keepers), shall be deemed to be registered under this Act, and the registering officer shall furnish her or him with such evidence of registration as the Local Government shall from time to time direct.

The name, age, caste (if any), and residence of every such woman, and such other particulars respecting her as the Local Government shall from time to time direct, shall be entered in a book to be kept for that purpose.

The name and residence of every such brothel-keeper, and the situation of the house, room, or place in which he carries on his business, shall be entered in a book to be kept for that purpose.

VI. Whenever any such woman changes her residence, she shall give notice thereof to such person and in such manner as the Local Government shall from time to time direct, and the necessary alterations shall be made in the said book and in the evidence of registration furnished to her as aforesaid.

Change of residence.

Any such woman failing to give notice as aforesaid, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to fourteen days, or with fine not exceeding fifty rupees, or with both.

Whenever any brothel-keeper changes his residence or acquires or enters into the occupation of any such house, room, or place as last aforesaid, other than the house, room, or place of which the situation has been registered as aforesaid, he shall give notice thereof to such person and in such manner as the Local Government shall from time to time direct, and the necessary alterations or additions shall be made in or to the said book, and in the evidence of registration furnished to him as aforesaid.

Any such brothel-keeper failing to give notice as last aforesaid, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one month, or with fine not exceeding one hundred rupees, or with both.

Refusal to show Evidence of Registration.

VII. Any registered woman or brothel-keeper who, without reasonable excuse, neglects or refuses to produce and show the evidence of her or his registration with which she or he shall have been furnished as aforesaid, when required so to do by such officer as the Local Government shall from time to time appoint in this behalf, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to fourteen days, or with fine not exceeding fifty rupees, or with both.

Penalty for refusing to show evidence of registration.

Information of the class of officers for the time being, authorized to make requisitions under this Section, shall be furnished to registered women and brothel-keepers, under such rules as the Local Government shall from time to time prescribe.

Special Provisions relating to Brothels.

Penalty for permitting unregistered prostitutes to resort to brothels.

VIII. If any brothel-keeper, whether registered as such under this Act or not, has reasonable cause to believe any woman to be a prostitute and not to be registered under this Act, and induces or suffers her to resort or be, for the purpose of prostitution, to or in the house, room, or place in which he carries on his said business, he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Proviso.

Provided that nothing in this or any other section of this Act shall exempt the offender from any penal or other consequences to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

Brothel-keepers legally bound to furnish information.

IX. Every such brothel-keeper shall be legally bound to furnish information on any subject relating to his business to such officers, and in such manner and at such times as the Local Government shall from time to time prescribe in this behalf. Every such officer shall, for the purposes of this section, be deemed to be a public servant.

Examination of Prostitutes.

Examination of prostitutes.

X. The Local Government shall have power to appoint persons to make periodical examinations of registered women in order to ascertain whether at the time of each such examination they are affected with contagious disease.

Local Government may make rules as to examinations.

XI. For each of the places to which this Act applies, the Local Government may make rules consistent with this Act respecting the times and places of examination under this Act at that place, and generally respecting the arrangements for the conduct of those examinations and for recording the results thereof; and a copy of rules purporting to be rules under this section shall, if signed by a Secretary to such Government, be evidence of such rules for the purposes of this Act.

Reports.

The Local Government may also require the persons making such examination to send in reports to such persons at such times and in such form as the Local Government shall from time to time prescribe.

Penalty for disobeying rules.

Any person not a medical officer appointed to make such examination, and any registered woman, disobeying any rule made under this section, shall, on conviction before a Magistrate, be punished with simple imprisonment for a term which may extend to one month, or with fine not exceeding one hundred rupees, or with both.

Certified Hospitals.

Local Government may provide and certify hospitals.

XII. The Local Government may from time to time provide any buildings or parts of buildings as hospitals for the purposes of this Act.

Any building or part of a building so provided and certified in writing by a Secretary to the Local Government to be so provided shall be deemed a certified hospital under this Act.

Control of such hospitals.

Every certified hospital so provided shall be placed under the control and management of such persons as to the Local Government shall from time to time seem fit.

Regulations for management of hospitals.

XIII. The Local Government shall make regulations for the inspection, management, and government of the hospitals as far as regards women authorized by this Act to be detained therein for medical treatment or being therein under medical treatment for a contagious disease.

A copy of regulations purporting to be regulations made under this section shall, if signed by a Secretary to such Government, be evidence of such regulations for the purposes of this Act.

Registered prostitutes, on receiving notice, to go to hospital.

XIV. Any woman registered under this Act shall, on receiving notice from any such officer as the Local Government shall from time to time appoint in this behalf, proceed to the certified hospital named in such notice, and place herself there for medical treatment.

Penalty for neglect or refusal.

If after the notice is delivered to her, she neglects or refuses to proceed to the said hospital within the time specified in the said notice, an officer of Police shall apprehend her and convey her with all practicable speed to such hospital, and place her there for medical treatment.

Detention of prostitutes under medical treatment.

XV. Whenever any such woman affected with contagious disease places herself, or is placed as aforesaid in a certified hospital for medical treatment, she shall be detained there for that purpose by such medical officer of the hospital as the Local Government shall from time to time appoint in this behalf until discharged by him by writing under his hand.

Medical treatment, lodging, clothing, and food shall be provided gratis for every such woman during her detention in the hospital.

Penalty for leaving hospital before discharge.

XVI. If any woman authorized by such medical officer to be detained in a certified hospital for medical treatment, quits the hospital without being discharged therefrom by the chief medical officer thereof, by writing under his hand (the proof whereof shall lie on the accused), or

Penalty for disobeying regulations of hospital.

if any woman authorized by this Act to be detained in a certified hospital for medical treatment, or any woman being in a certified hospital under medical treatment for a contagious disease, refuses or wilfully neglects, while in the hospital, to conform to the regulations thereof approved under this Act,

then, and in every such case, such woman shall, on conviction before a Magistrate, be punished with imprisonment, in the case of a first offence, for any term not exceeding one month, and in the case of a second or any subsequent offence, for any term not exceeding three months; and in case she quits the hospital without being discharged as aforesaid, she may be taken into custody without warrant by any officer of Police.

On the expiration of her term of imprisonment under this section, such woman shall be sent back from the prison to the certified hospital, and shall be detained there unless the medical officer of the prison at the time of her discharge from imprisonment certifies in writing that she is free from contagious disease (the proof of which certificate shall lie on her).

Out-door Treatment of Prostitutes.

Power to provide for out-door treatment of registered women.

XVII. It shall be lawful for the Local Government to empower such surgeons or other persons as it shall from time to time appoint, to prescribe, by order to be served on any woman registered under this Act, who has not received a notice under section 14, the times and places at which she shall attend for medical treatment, and, if necessary, the medical treatment to which she shall submit.

Every such woman disobeying or failing to comply with any such order, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to a month, or with fine not exceeding one hundred rupees, or with both.

Penalty for acting as a prostitute while under medical treatment.

XVIII. If any registered woman on whom such order as last aforesaid shall have been served, conducts herself as a common prostitute before such surgeon or other person empowered as last aforesaid certifies in writing to the effect that she is then free from a contagious disease (the proof of which certificate shall lie on her), she shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Subsistence-allowance.

XIX. During the interval between the service of such order upon any registered woman and the granting of such certificate, an allowance for her subsistence shall be provided of such amount and in such manner as the Local Government shall from time to time prescribe.

Segregation of Prostitutes.

Penalty for residing in street or place after prohibition.

XX. In any place to which the Local Government shall, by notification in the Official *Gazette*, have specially extended this section, it shall be lawful for such officer as the Local Government shall from to time appoint in this behalf, to cause a notice to be served on any registered woman, requiring her, after an interval of not less than seven days to be mentioned in the notice, not to reside in any street or place therein specified.

Any registered woman on whom such notice shall have been served, disobeying the requisition therein contained, shall, on conviction before a Magistrate, be punished with imprisonment, in the case of a first offence, for any term not exceeding one month, and in the case of a second or any subsequent offence, for any term not exceeding three months.

Removal from Registry.

Removal of name from registry.

XXI. The Local Government shall lay down rules prescribing a procedure in accordance with which any woman registered under this Act and desirous of ceasing to carry on the business of a common prostitute in the place at which she is registered, and of having her name removed from the said book, may have her name removed accordingly.

Miscellaneous.

Institution of prosecutions.

XXII. No prosecution shall be instituted under this Act except at the instance of such officer as the Local Government shall from time to time appoint in this behalf.

Presumption as to signatures.

XXIII. In any proceeding under this Act, any notice, order, certificate, copy of regulations, or other document purporting to be signed by any person in the service of Government, or by any person whom the Local Government shall have, in exercise of the powers conferred on it by this Act, appointed to sign such document, shall, on production, be received in evidence, and shall be presumed to have been duly signed by the person and in the character by whom, and in which it purports to be signed, until the contrary is shown.

Service of notice.

XXIV. Every notice and order required by this Act to be served on a woman shall be served by delivery thereof either to her personally or to some person for her at her usual place of abode.

Limitation of suits.

XXV. Any suit against any person for anything done in pursuance of this Act, shall be commenced within three months after the thing done, and not otherwise.

Notice in writing of every such suit and of the cause thereof shall be given to the intended defendant one month at least before the commencement of the suit.

The plaintiff shall not recover if tender of sufficient amends is made before suit, or if a sufficient sum of money is paid into Court after suit brought, by or on behalf of the defendant.

Power to make rules.

XXVI. The Local Government shall have power from time to time to declare by what officer anything directed to be done by this Act shall be done, and by what class of officers information regarding anything made an offence by this Act shall be exclusively furnished.

The Local Government may also from time to time make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement.

The Local Government may also from time to time alter and add to any rules or regulations made under this Act: Provided that such alterations and additions are not inconsistent with any of the provisions hereinbefore contained.

ACT No. XVI. OF 1868.

(Received the assent of the Governor-General on the 24th April 1868.)

An Act to consolidate and amend the law relating to Principal Sudder Ameens, Sudder Ameens, and Moonsiffs in Bengal, and for other purposes.

Bill 25 of 1870 proposes to repeal this Act.

ACT No. XIX OF 1868.

(Received the assent of the Governor-General on the 22nd July 1868.)

An Act to consolidate and amend the Law relating to Rent in Oudh.

1. *Short title and extent of Act.*
2. *Repeal of laws, &c.*
3. *Interpretation clause. "Oudh." "Suit." "Assistant Commissioner." "Land." "Revenue.' "Rent." "Proprietor." "Proprietary right." "Under-proprietor." "Under-proprietary right." "Tenant." "Landlord." "Representative." "Lumberdar."*
4. *Saving of written agreements. Index not to have force of law.*
5. *Tenants having a right or occupancy.*
6. *Loss of right or occupancy.*
7. *Tenant's right to a lease.*
8. *Lease to which tenant having right of occupancy is entitled.*
9. *Lease to which tenant not having right of occupancy is entitled.*

10. *Landlord entitled to counterpart.*
11. *Cancelment of lease.*
12. *What to be deemed an arrear of revenue or rent.*
13. *Receipts for rent.*
14. *Power to pay into Court, without suit brought, amount of revenue or rent due.*
15. *Procedure on making and withdrawing such payment. Service of notice.*
16. *Limitation of suits for balance of revenue or rent.*
17. *Compensation for non-acceptance of revenue or rent.*
18. *Compensation to under-proprietor or tenant for illegal enforcement of payment.*
19. *Suits for abatement of rent by under-proprietor or tenant.*
20. *When Court may allow remission from rent.*
21. *Relinquishment of land by tenant.*
22. *Tenants' right to compensation for improvements.*
23. *"Improvements" defined.*
24. *Compensation how made.*
25. *Provision for difference as to amount or value of compensation.*
26. *Tender of lease for twenty years to bar right to compensation for improvements.*
27. *Landlord's right to enter and measure lands.*
28. *Commutation of rents in kind.*
29. *Chief Commissioner may extend section 28, and declare officers to hear and decide cases thereunder.*
30. *Division or appraisement of produce taken for rent.*
31. *Procedure in case of dispute.*
32. *Enhancement of rent of tenant with right of occupancy.*
33. *Term for re-enhancement, after decision fixing rent under section 32.*
34. *Enhancement on re-assessment of revenue.*
35. *Court not to enquire into propriety of rate of rent payable by tenant not having right of occupancy.*
36. *Suits in which there is evidence in writing of agreement to alter rent.*
37. *Grounds on which tenant may contest liability to ejectment.*
38. *Time of ejectment of tenant.*
39. *Time of ejectment of sub-lessor.*
40. *Ejectment for arrears of rent.*
41. *Ejectment of tenant having a right of occupancy.*
42. *Ejectment of tenant not having a right of occupancy.*
43. *Notice of ejectment of tenant not having right of occupancy.*
44. *If notice is not contested, tenancy to be held to cease.*
45. *When assistance to eject may be given by Court.*
46. *Compensation to ejected tenant for growing crops.*
47. *Recovery of arrears of rent by distress. Proviso as to tenants who have given security for payment of rent.*
48. *No distress in certain cases.*
49. *Power of distress by whom exerciseable. Liability of principal of agent.*
50. *Distress by servants.*
51. *Crops liable to distress.*
52. *Demand of arrear before or at time of distress.*
53. *Value of distress. Service of list of property to be distrained.*
54. *Reaping and storing standing crops when distrained.*
55. *Application by distrainer in case of resistance.*
56. *Withdrawal by distress on tender of arrear and costs.*
57. *Application for sale.*
58. *Form of application.*
59. *Procedure on receipt of application.*
60. *Suspension of sale on institution of suit.*
61. *Suit to contest distrainer's demand.*
62. *Withdrawal of distress on execution of bond.*
63. *Proceeding with sale, if, on expiration of time fixed, no suit is instituted.*
64. *Place and manner of sale.*
65. *Postponement of sale where fair price is not offered.*
66. *Payment of purchase-money.*
67. *Proceeds of sale.*
68. *Officers holding sales not to purchase.*
69. *Illegal acts of distrainer to be reported.*
70. *Recovery of expenses if no sale takes place.*

71. *Second proclamation of sale when arrears are adjudged to be due.*
72. *Distrainer to prove the arrear in suits to contest his demand.*
73. *Compensation for vexatious distress.*
74. *Suit by third party claiming prop rty distrained.*
75. *Release on giving security. Order if claim dismissed. Compensation for distress of stranger's property.*
76. *Landlord's prior claim to distrainable produce in possession of defaulting tenant.*
77. *Stranger claiming to be landlord and to have right of distress to be made a party.*
78. *Suit for illegal distress.*
79. *Suit for illegal act of distrainer.*
80. *Suit for distress or sale falsely purporting to be under this Act.*
81. *Procedure in case of resistance to distress.*
82. *Punishment of offender.*
83. *Suits cognizable under this Act.*
84. *Grades of Courts for the purposes of this Act.*
85. *Chief Commissioner may declare grade of Tahsildâr or Assistant Commissioner.*
86. *Deputy Commissioner to have Collector's powers.*
87. *Settlement Officers may be invested with powers of Collector, &c., under this Act.*
88. *Jurisdiction of Assistant Collector of the second class.*
89. *Jurisdiction of Assistant Collector of the first class.*
90. *Jurisdiction of Deputy Collector.*
91. *Jurisdiction of Collector.*
92. *Jurisdiction of Commissioner.*
93. *Jurisdiction of Financial Commissioner.*
94. *Time for presenting appeals.*
95. *No appeal, except in certain cases, from Collector's decree for money below one hundred rupees.*
96. *Deputy Commissioner may distribute business in subordinate Courts.*
97. *Transfer of suits from subordinate Courts to Commissioner's or Collector's Court. Withdrawal or reference of appeals.*
98. *Financial Commissioner may transfer suits and appeals from one subordinate Court to another.*
99. *General subordination of Courts. Proviso.*
100. *Suits by or against managing agents or tâhsildârs of khâm estates.*
101. *Sharer to exercise certain powers only through manager or lumberdâr.*
102. *Recovery of land of which applicant has been illegally dispossessed.*
103. *Courts may sit anywhere within limits of their jurisdiction.*
104. *General limitation.*
105. *Suits for delivery of leases or counterparts.*
106. *Suits for arrears of rent or revenue or share of profits.*
107. *Suits against agents for money, or delivery of accounts or papers.*
108. *Suits regarding distress, division of produce, &c.*
109. *Civil Procedure Code to be the procedure under this Act.*
110. *Particulars to be added to plaint.*
111. *Third person claiming rent to be made a party.*
112. *Summons to defendant to be for final disposal.*
113. *Set-off in suits for arrears of rent.*
114. *Defendant may pay money into Court.*
115. *Procedure for balance where defendant pays less than amount claimed.*
116. *Dismissal of suit for lease or counterpart, in absence of written evidence of agreement*
117. *Collector may make local enquiry.*
118. *Time within which execution may be had.*
119. *Immediate execution of decree.*
120. *Decree for enhancement to state date from which it is to take effect.*
121. *Enforcement of decree for delivery of papers or accounts.*
122. *Decrees for lease or counterpart to specify particulars.*
123. *Court after decree may grant lease or counterpart in case of defendant's refusal.*
124. *Execution to be first made against moveable property.*
125. *Sale of under-proprietary right in execution of decree for arrears of rent. Appointment of Deputy Commissioner as manager.*
126. *Registration of incumbrance created by under-proprietor.*

127. *Proprietor's lien for rent payable by under-proprietor.*
128. *Right of pre-emption at execution-sales.*

WHEREAS it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

I. This Act may be cited as "The Oudh Rent Act," and shall extend only to Oudh. Short title and extent of Act.

II. *Repealed by Act XIV of* 1870.

III. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

"Oudh" means the territories under the administration of the Chief Commissioner of Oudh at the time of the passing of this Act: "Oudh."

"Court" means any judicial officer presiding in a Court of Revenue for the disposal of matters under this Act: "Court."

"Suit" means a suit under this Act: "Suit."

"Assistant Commissioner" includes an Extra Assistant Commissioner: "Assistant Commissioner."

"Land" applies only to land assessed to the land-revenue, and includes land whereof the revenue has been assigned by Government; it also includes the ungathered produce of land, whether spontaneous or otherwise, and whether growing in earth or water: "Land."

"Revenue" means the money payable to the Government on account of land: "Revenue."

"Rent" means the money or the portion of the produce of land, payable on account of the use or occupation of land, or on account of the use of water for irrigation: "Rent."

"Proprietor" does not include an under-proprietor. Where there are two private rights of property, one superior and the other subordinate, in the same land, "proprietor" means the holder of the superior right only: "Proprietor."

"Proprietary right" means a proprietor's right in land: "Proprietory right."

"Under-proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent: "Under-proprietor."

"Under-proprietary right" means an under-proprietor's right in land: "Under-proprietory right.

"Tenant" means any person not being an under-proprietor, who is liable to pay rent: "Tenant."

"Landlord" means any person to whom an under-proprietor or tenant is liable to pay rent: "Landlord."

"Representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person. It includes the guardian of a minor and the legal curator of a lunatic or idiot: and "Representative."

"Lumberdár" means any person who has executed an engagement for the payment of the revenue to Government, or for the payment to a landlord of the rent due from under-proprietors holding a sub-settlement. "Lumberdár."

IV. Nothing in sections 19, 20, 21, 22, 23, 24, 25, and 28, shall affect the terms of any agreement in writing heretofore or hereafter entered into, respecting the subject-matter of the said sections respectively. Saving of written agreements.

Nothing in the index to this Act shall be deemed to have the force of law. Index not to have force of law.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS, AND TENANTS.

Right of Occupancy.

V. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for the same according to the provisions of this Act, have a right of occupancy under the following rule:— Tenants having a right of occupancy.

Rule.

Every such tenant, who, within thirty years next before the thirteenth day of February 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate, shall be deemed to possess a heritable but not a transferable right of occupancy in the land

which he cultivated or held in such village or estate on the twenty-fourth day of August 1866: Provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February 1856: Provided also, that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

Loss of right of occupancy.

VI. If a tenant having a right of occupancy be ejected in accordance with the provisions of section 41, from the land in which he possesses such right, he shall thereupon lose his right of occupancy in such land.

Tenants' Right to Leases.

Tenant's right to a lease.

VII. Every tenant is entitled to receive from his landlord a lease executed by him and containing the following particulars:—

The quantity of land; and, where the fields comprised in the lease have been numbered in a Government survey, the number of each field:

The term for which the lease is granted:

The amount of rent payable:

The instalments in which and the times at which the same is to be paid:

Any special conditions of the lease:

And, if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner, and place of delivery.

Lease to which tenant having right of occupancy is entitled.

VIII. Tenants having a right of occupancy are entitled to receive leases at rates of rent determined in accordance with the provisions contained in sections 32 33, and 34.

Lease to which tenant not having right of occupancy is entitled.

IX. Tenants not having a right of occupancy are entitled to leases only on such terms as may be agreed on between them and the landlord.

Landlords' Right to Counterparts.

Landlord entitled to counterpart.

X. Every landlord who grants a lease is entitled to receive from the tenant a counterpart executed by him.

Cancelment of Leases.

Cancelment of lease

XI. When any landlord or any tenant not having a right of occupancy fails to perform or observe any of the stipulations contained in the lease, such lease shall be liable to be cancelled by a decree.

If, after such decree, the ejectment of the tenant is postponed in accordance with the provisions of section 38, he shall be liable, so long as he remains in occupation of the land comprised in the lease, to pay the rent reserved thereby.

Arrears of Revenue or Rent.

What to be deemed an arrear of revenue or rent.

XII. Any instalment of revenue or rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be:

Provided that, unless the proprietor and under-proprietor shall have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which such rent is payable is situate, and to be payable in the same number of instalments as the said revenue; and the amount of each instalment of such rent shall bear the same proportion to the whole of such rent payable for the year, as the amount of each instalment of such revenue bears to the whole of such revenue payable for the year.

Receipts.

Receipts for rent.

XIII. Receipts for rent and acknowledgments of the tender of rent shall specify the year or years on account of which it has been paid or tendered; and any refusal to make such specification shall be held to be a withholding of a receipt or acknowledgment.

If such receipt or acknowledgment is withheld from any under-proprietor or tenant without sufficient cause, he may recover compensation from the landlord, not exceeding the amount so paid or tendered.

Deposit of Revenue or Rent in Court without Suit.

Power to pay into Court, without suit brought, amount of revenue or rent due.

XIV. If any co-sharer, under-proprietor, or tenant having a right of occupancy, or holding under an unexpired lease or under an agreement or decree, shall, at the place where the revenue or rent of the land held or cultivated by him is usually payable, tender to the person authorized to receive the same, payment of

the full amount of such revenue or rent due in respect of such land; and if such amount is not accepted and a receipt in full forthwith granted, it shall be lawful for the co-sharer, under-proprietor, or tenant, without any suit having been instituted against him, to deposit such amount in Court to the credit of the person authorized to receive it.

Such deposit shall, so far as regards the co-sharer, under-proprietor, or tenant, and all persons claiming through or under him, operate as a payment then made to the lumberdâr or landlord of the amount so deposited.

Proceduro on making and withdrawing such payment.

XV. The Court shall receive such deposit on the written application of the co-sharer, under-proprietor, or tenant, or his recognized agent: * * * * * * and on such co-sharer, under-proprietor, tenant, or agent, making a declaration in the form set forth in schedule A hereto annexed, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit. *

Such declaration shall be verified in the manner prescribed for the verification of plaints in the Code of Civil Procedure, and the provisions of section 24 of the said Code shall apply to the person making the verification.

Upon receiving the money so deposited, the Court shall issue to the person to whose credit it has been deposited, a notice in the form set forth in schedule B hereto annexed.

Service of notice.

Such notice shall be served by the proper officer, without the payment of any fee, upon the person to whom it is addressed, or upon his recognized agent.

In the absence of any such agent, it may be served by putting up a copy of the same at the Court-house, and another copy at the ordinary place of residence, within the jurisdiction of the Court, of such person, or if there be no such place, at the place where the revenue or rent is usually paid to the lumberdâr or landlord, as the case may be, for the land in respect of which the money has been deposited.

If the person on whom such notice is served, or his recognized agent, appears and applies that the money in deposit be paid to him, it shall immediately be paid accordingly.

Limitation of suits for balance of revenue or rent.

XVI. Whenever a deposit has been made under the provisions of this Act, no suit shall be brought against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice mentioned in section 15.

Compensation for non-acceptance of revenue or rent.

XVII. If, at the time of passing the decision in any such suit, the Court is satisfied that the full amount of revenue or rent due at the time of the deposit was tendered to, and was not accepted by, the lumberdâr or landlord or his recognized agent, as the case may be, or that a receipt or acknowledgment was withheld for such amount without sufficient cause, the Court may award to such depositor compensation from the lumberdâr or landlord, not exceeding the amount so paid or tendered.

If the Court be satisfied that the amount of the deposit was less than the amount of revenue or rent due, the Court shall pay the amount of the deposit to the lumberdâr or landlord, and shall make a decree for the balance due by the depositor.

Illegal Enforcement of Payment of Rent.

Compensation to under-proprietor or tenant for illegal enforcement of payment.

XVIII. If payment of rent or of any sum in excess of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for such enforcement, the Court may award to him compensation, not exceeding the sum of rupees two hundred in addition to any amount for which it makes a decree in respect of such payment.

An award of compensation under the former part of this section shall not bar any prosecution to which the person enforcing such payment may be liable under any law for the time being in force.

Abatement of Rent.

Suits for abatement of rent by under-proprietor or tenant.

XIX. No suit for an abatement of rent shall be brought by any under-proprietor or tenant, except on the ground that the area of the land has been diminished by diluvion, or on some ground specified in any lease, agreement, or decree, under which he holds:

Provided that, if the under-proprietor hold a sub-settlement in a revenue-paying estate, no such abatement shall be allowed to the under-proprietor unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

* The words omitted from this section have been repealed by Act VII of 1870.

Remission of Rent.

When Court may allow remission from rent.

XX. Notwithstanding anything contained in sections 19, 35, and 36, the Court, in making a decree for an arrear of rent, may allow such remission from the rent payable by any under-proprietor or tenant as appears equitable, if the area of the land in his occupation has been diminished by diluvion or otherwise, or if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed :

Provided that, if the under-proprietor hold a sub-settlement, or if the tenant hold a lease for a term of not less than five years, or have a right of occupancy in a revenue-paying estate, no such remission shall be allowed to him unless a remission of revenue shall have been allowed on the same ground and by competent authority in the same estate.

Relinquishment of Land.

Relinquishment of land by tenant.

XXI. Every tenant shall continue liable for the rent of the land in his holding, unless on or before the fifteenth day of May in any year he gives notice to the landlord or his recognized agent of his desire to relinquish such land, and relinquishes it accordingly, or unless it has been let to any other person by such landlord or agent.

If the landlord or his recognized agent refuse to receive such notice, the tenant may apply to the tahsíldár or proper officer, and written notice of such desire shall thereupon be served on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent; but if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *chaupál* or other conspicuous place in the village wherein the land is situate.

Compensations for Tenants' Improvements.

Tenants' right to compensation for improvements.

XXII. If any tenant, or the person from whom he has inherited, make any such improvements on the land in his occupation as are hereinafter mentioned, the rent payable by him or his representative shall not be enhanced, nor shall he or his representative be ejected from the same land unless and until he or his representative, as the case may be, has received compensation for the outlay, in money or labor, or both, expended in making such improvements by him, or the person from whom he has inherited, or whom he represents, within thirty years next before the date of such enhancement or ejectment.

"Improvements" defined.

XXIII. The word "improvements," as used in section 22, means works by which the annual letting value of the land has been, and, at the time of demanding compensation, continues to be, increased, and comprises—

1*st.*—The construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells; the reclaiming and clearing of waste lands and jungles; and other works of a like nature;

2*nd.*—The renewal or re-construction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same, and which increase durably their value

Compensation how made.

XXIV. Such compensation may, at the option of the landlord or his representative, be made—

(1.)—By payment in money;

(2.)—By the grant of a beneficial lease of the land by the landlord or his representative to the tenant or his representative; or

(3.)—Partly by payment in money and partly by the grant of such lease as aforesaid.

Provision for difference as to amount or value of compensation.

XXV. In case of difference as to the amount or value of the compensation tendered, either party may present an application to the Court, * * * * * * * * stating the matter in dispute, and requesting a determination thereof.

On receiving such application, the Court shall cause notice thereof to be served on the other party, and after taking such evidence as the parties or either of them may adduce, and after such further enquiry (if any) as it may deem necessary, determine (as the case may be) the amount of the payment, or the terms of the lease, or both.

In determining such amount, the Court shall take into account any assistance given by the landlord, either directly in money, material or labor, at the time of

* The words omitted from this section and section 30 have been repealed by Act Act VII of 1870.

making such improvements, or indirectly by subsequently allowing the tenant to hold at a rate of rent more favorable than the rate at which he otherwise would have held.

The proceedings on any such application shall be deemed to be a suit for the purposes of chapter 6 (as to reference to arbitration) of the Code of Civil Procedure and of section 9 of Act No. XXIII of 1861 (*to amend Act VIII. of* 1859).

Tender of lease for twenty years to bar right to compensation for improvements.

XXVI. If in any case a landlord tenders to a tenant a lease of the land in his occupation, for a term of not less than twenty years from the date of the tender, at the annual rent then paid by the tenant, or at such other annual rent as may be agreed upon, such tender, if accepted by the tenant, shall bar any claim by him or his representative in respect of improvements previously made on such land by the tenant or the person from whom he has inherited.

Survey and Measurement.

Landlord's right to enter and measure lands.

XXVII. Every landlord, his agents and surveyors, may at all reasonable times enter upon any land comprised in his estate for the purpose of surveying and measuring the same.

CHAPTER III.

COMMUTATION AND PAYMENT OF RENT IN KIND.

Commutation of rents in kind.

XXVIII. In any district in which a settlement of revenue is in progress, it shall be in the discretion of any officer employed in making or revising such settlement, in any case in which the rent of a tenant having a right of occupancy is paid in kind, or by the estimated value of a portion of the crop, to commute, on the application, either of the landlord or the tenant, such rent into a rent in money.

The amount of rent thus fixed shall be binding upon the parties concerned.

All decisions already passed by any such officer, commuting rents in kind or by valuation to rents in money, shall, subject to the same appeal as is given by this Act in respect of decisions passed in suits, be binding on the parties concerned.

Chief Commissioner may extend section 28, and declare officers to hear and decide cases thereunder.

XXIX. The Chief Commissioner of Oudh may extend the provisions of section 28 to any district or portion of a district in which a settlement of revenue is not in progress;

And may declare what officers are empowered to hear and decide cases under this section;

And may, with the previous sanction of the Governor-General of India in Council, make rules for the guidance of officers acting under this section and section 28, and from time to time, with the like sanction, alter and add to the rules so made:

Provided that such rules, alterations, and additions, are consistent with this Act.

Division or appraisement of produce taken for rent.

XXX. Wherever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence both of the tenant and landlord either personally or by a recognized agent, if either party neglect to be present at the proper period, or if a dispute arise between the parties regarding such division, estimate, or appraisement, either party may present an application to the Court * * * * * * requesting that a proper officer be deputed to make the division, estimate, or appraisement.

Procedure in case of dispute.

XXXI. On receiving such application, the Court shall issue a written notice to the other party to attend on the date and at the place specified in the notice, and shall depute an officer before whom the division, estimate, or appraisement shall be made.

The award of such officer in respect of such division, estimate, or appraisement, shall be final, unless within one month from the date thereof either party institutes a suit to set it aside.

CHAPTER IV.

ENHANCEMENT AND FIXING RATES OF RENT.

A.—Tenants with Right of Occupancy.

Enhancement of rent of tenant with right of occupancy.

XXXII. No tenant having a right of occupancy in any land shall, in case of dispute as to the rent to be paid in respect of such land, be liable to an enhancement of the rent, except in pursuance of a decree made under this Act on some one of the following grounds (that is to say):—

1st Ground.—That the rate of rent paid by him is below the rate of rent usually paid by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate.

2nd Ground.—That the rate of rent paid by him is more than 12½ per cent below the rate of rent usually paid by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate less 12½ per cent.

3rd Ground.—That the quantity of land held by him exceeds the quantity for which he has previously paid rent.

Rule.—In this case the Court shall decree rent for the land in excess, at rates to be fixed by the first or the second of the Rules contained in this section, as the case may be.

Nothing contained in the previous part of this section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

Term for re-enhancement, after decision fixing rent under section 32.

XXXIII. After a decision has been passed in accordance with section 32, no suit shall lie for re-enhancement of such rent until the expiration of five years from the date of such decision, except on the said third ground, or, in the case referred to in section 34, until, by re-assessment within the said term of five years, the revenue of such land has been increased.

Enhancement on re-assessment of revenue.

XXXIV. On such re-assessment, if the rent of such tenant cannot be enhanced under section 32 by reason of the absence of the grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at such re-assessment upon land of a similar description and with similar advantages, held by tenants of the same class in the same village.

B.—Tenants not having Right of Occupancy.

Court not to enquire into propriety of rate of rent payable by tenant not having right of occupancy.

XXXV. The Court shall in no case enquire into the propriety of the rate of rent payable by a tenant not having a right of occupancy.

The rent payable by such tenant for any land in his occupation shall be such amount as may be agreed upon between him and the landlord; or, if no such agreement has been made, such amount as was payable for the land in the last preceding year.

Suits in which there is evidence in writing of agreement to alter rent

XXXVI. If in any suit between a landlord and a tenant not having a right of occupancy, the amount of rent payable by such tenant shall be disputed, he shall not be held liable to pay rent other than that payable by him for the last preceding year, unless the Court is satisfied by evidence in writing that the parties have agreed that the rent so payable shall be altered.

CHAPTER V

EJECTMENT.

General Provisions.

Grounds on which tenant may contest liability to ejectment.

XXXVII. A tenant may contest his liability to be ejected from the land which he holds on any of the following grounds :—

First.—That he holds a lease or an agreement, or a decree of Court, under the terms of which he is not liable to such ejectment;

Second.—That he has a right of occupancy in the land :

Third.—And if he be a tenant not having a right of occupancy, that notice of ejectment has not been served upon him in manner provided by section 43.

Time of ejectment of tenant.

XXXVIII. No tenant, except a sub-lessor, shall in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupancy, except between the first day of April and the fifteenth day of June in any year after the passing of this Act; unless, while his rent is in arrear, he has failed to cultivate the land in his possession in accordance with the terms on which he holds it.

Time of ejectment of sub-lessor.

XXXIX. A sub-lessor liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy.

Ejectment for arrears of rent.

XL. Any tenant, other than a sub-lessor, from whom an arrear of rent remains due on the fifteenth day of May in any year after the passing of this Act, and any sub-lessor from whom an arrear of rent remains due at any time during his tenancy, may, subject to the provisions of sections 38, 39, and 41, be ejected from the land in respect of which the arrear is due.

Tenant with Right of Occupancy.

XLI. No tenant having a right of occupancy, or holding under an unexpired lease, or special agreement, or decree of Court, shall be ejected otherwise than in execution of a decree for ejectment:

Ejectment of tenant having a right of occupancy.

Provided that, if the tenant have a right of occupancy in the land from which the landlord desires to eject him, the decree shall not be made, unless, at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards.

Tenant without Right of Occupancy.

XLII. A tenant not having a right of occupancy and not holding under an unexpired lease or an agreement, or a decree of Court, may be ejected in accordance with the provisions of this Act: *first*, in execution of a decree for arrears of rent or for ejectment; or, *second*, by notice given by his landlord in the manner described in section 43.

Ejectment of tenant not having a right of occupancy.

Notice.

XLIII. The notice mentioned in section 42 shall be written in Hindi and in Urdu: it shall specify the land from which the tenant is to be ejected; and it shall inform him that if he means to dispute the ejectment, he must institute a suit for that purpose on or before the fifteenth day of May next after the service of the notice, or vacate the land on or before that date.

Notice of ejectment of tenant not having right of occupancy.

Service of Notice.

On the application of the landlord to the tahsíldár or officer authorized to serve such notices, the notice shall be served by such officer on or before the fifteenth day of April in each year, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant. But if he cannot be found, service may be made by affixing the notice at his usual place of residence; or, if he does not reside in the district wherein the land is situate, at the village *chaupál* or other conspicuous place in the village wherein the land is situate.

Cessation of Tenancy.

XLIV. If the tenant on whom such notice of ejectment has been served fails to institute a suit to contest his liability to be ejected, on or before the fifteenth day of May next after the service, his tenancy of the land in respect of which the notice has been served shall be held to cease on that date, unless, after the service, the landlord has expressly authorized him to continue to occupy the land.

If notice is not contested, tenancy to be held to cease.

Assistance to eject.

XLV. If no such suit be brought, and the landlord require the assistance of the Court to eject any person whose tenancy is alleged to have ceased under the provisions of section 44, he may apply for such assistance, and, if the Court is satisfied that notice of ejectment was duly served on such person, it shall give such assistance accordingly:

When assistance to eject may be given by Court.

Provided that nothing done by the Court under the previous part of this section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejectment and to recover compensation for the same.

Growing Crops.

XLVI. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant, and being on the land at the time of his ejectment:

Compensation to ejected tenant for growing crops.

Provided that, if the land shall have been sown or planted by the tenant after the service on him of the notice mentioned in section 42, he shall not be so entitled, unless, after such service, the landlord has expressly authorized him to continue to occupy the land.

CHAPTER VI.

DISTRESS FOR ARREARS OF RENT.

XLVII. When an arrear of rent is due from any tenant, the landlord may distrain the produce of the land in respect of which the arrear is due, subject to the rules contained in the following sections:—

Recovery of arrears of rent by distress.

Proviso as to tenants who have given security for payment of rent.

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which such rent is payable, shall not be liable to distress so long as the security is in force.

No distress in certain cases.

XLVIII. Distress shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay such excess, or unless he has been declared to be liable for the same by a decree of Court.

Power of distress by whom exerciseable.

XLIX. The power of distress, vested by section 47 in landlords, may be exercised by managers under the Court of Wards, managing agents, and tahsíldárs of estates held under khám management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney to distrain:

Liability of principal of agent.

Provided that, if any such agent, puporting to act in the exercise of the said power, commits an act which, under the provisions of this chapter, is illegal, the person employing such agent shall be liable, as well as the agent, to be sued for compensation for any injury caused by such act.

Distress by servants.

L. Any person empowered to distrain property under section 47 or 49, may employ a servant or other person to make the distress; but in every such case he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Crops liable to distress.

LI. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with powers of distress under this Act.

But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same agreement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

Demand of arrear before or at time of distress.

LII. Before or at the time when any distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, but if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

Value of distress. Service of list of property to be distrained.

LIII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent, affix it at his usual place of residence.

Reaping and storing standing crops when distrained.

LIV. Standing crops and other ungathered products of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose.

If the tenant neglect to do so, the distrainer may cause the said crops or products to be reaped or gathered, and, in such case, shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case, the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose.

If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering.

Application by distrainer in case of resistance.

LV. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it think necessary, depute an officer to assist the distrainer in making the distress.

Withdrawal of distress on tender of arrear and costs.

LVI. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tenders payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the same and give a receipt therefor, and shall forthwith withdraw the distress.

Application for sale.

LVII. Within five days from the time of storing any distrained crops or products, or if such crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply

for sale of the same to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

Form of application.

LVIII. The application shall be in writing : it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due, and the place in which the distrained property is deposited.

Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as hereinafter provided.

Procedure on receipt of application.

LIX. Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in schedule C hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

The officer shall at the same time send to the Court, for the purpose of being put up at the Court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation ; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain a description of the property, and shall specify the demand for which it is sold, and the place where the sale is to be held.

Suspension of sale on institution of suit.

LX. If a suit is instituted in pursuance of the aforesaid notice, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him a certificate of the institution of the suit.

On such certificate being received by, or presented to, the proper officer, he shall suspend proceedings in regard to the sale :

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

Suit to contest distrainer's demand.

LXI. Any person whose property has been distrained as aforesaid, may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 59.

When such suit is instituted, the Court shall proceed in the manner prescribed in section 60.

If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings, pending the decision of the case.

Withdrawal of distress on execution of bond.

LXII. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount not less than double the value of the property so distrained, binding himself to pay whatever sum may be adjudged to be due from him with costs of suit.

When such bond is executed, the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the same.

Upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Court, the property shall be released from distress.

Proceeding with sale, if, on expiration of time fixed, no suit is instituted.

LXIII. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary.

Place and manner of sale.

LXIV. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázár, or other place of public resort, if the proper officer thinks that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable ; and if the demand, with the costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

Postponement of sale where fair price is not offered.

LXV. If on the property being put up for sale, a price which the officer holding the sale shall think fair be not offered, and if the owner of the property or his recognized agent apply to have the sale postponed until the next day, or (if a market be held at the place of sale) until the next market-day, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered.

Payment of purchase-money.

LXVI. The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit; and in default of such payment, the property shall be put up again and re-sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

Proceeds of sale.

LXVII. The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee, on account of the expenses attending the sale.

He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 59, to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

Officers holding sales not to purchase.

LXVIII. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are forbidden to purchase, either directly or indirectly, property sold by such officers.

Illegal acts of distrainer to be reported.

LXIX. The officer mentioned in section 57 shall bring to the notice of the Court any illegal act which shall come to his knowledge as having been committed by any person in making a distress under this Act.

If in any case, on proceeding to hold a sale under this Act, such officer finds that the owner has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 59, or make such order as it thinks proper.

Recovery of expenses if no sale takes place.

LXX. When such officer has gone to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in section 69, or because the distrainer's demand has been previously satisfied, the said charge on account of expenses attending the sale shall be leviable by the officer, and shall be calculated on the value of the distrained property, as estimated by him unless the distrainer's demand has been satisfied before the day fixed for the sale, and notice of such satisfaction has been given by him to the officer.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion thereof as may be necessary.

In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property:

Provided that, in no case shall an amount exceeding ten rupees be recoverable under this section.

Second proclamation of sale when arrears are adjudged to be due.

LXXI. When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

On the application of the distrainer (which shall be made within five days from the receipt of such order by such officer), such officer shall publish a second proclamation in the manner prescribed in section 59, fixing another day for the sale of the distrained property, not less than five nor more than ten days from the date of the proclamation; and, unless the amount adjudged to be due with costs of distress be paid immediately, shall proceed to sell the property in the manner hereinbefore provided.

Distrainer to prove the arrear in suits to contest his demand.

LXXII. In all suits instituted to contest a distrainer's demand, the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Court shall make a decree for the amount in favour of the distrainer.

Such amount may be recovered by sale of the distrained property as provided in section 71, and, if the distress has not been withdrawn, and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property have been released on security by execution of the decree against the person and property of the defaulter, and, if his surety has been made a party to the suit against the person and property of such surety.

Compensation for vexatious distress.

LXXIII. If the distress is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such

compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

LXXIV. If any person claims, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arear of rent alleged to be due from him may institute a suit to contest the demand.

Suit by third party claiming property distrained.

LXXV. When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

Release on giving security.

If the claim is dismissed, the Court shall make an order in favour of the distrainer for the sale of the property, or the recovery of its value, as the case may be.

Order if claim dismissed.

If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation as it thinks fit, not exceeding twice the value of the property distrained.

Compensation for distress of stranger's property.

LXXVI. No claim to any produce of land liable to distress under this Act, and found at the time of the distress in the possession of a defaulting tenant, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against such claim.

Landlord's prior claim to distrainable produce in possession of defaulting tenant.

LXXVII. Whenever property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, and the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such inquiry :

Stranger claiming to be landlord and to have right of distress to be made a party.

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of the land, to establish such title in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

LXXVIII. Any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, and who is pevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by sections 59 and 74, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress or sale.

Suit for illegal distress.

LXXIX. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act ;

Suit for illegal act of distrainer.

or if any distrained property is lost, damaged, or destroyed, by reason of the distrainer not having taken proper prosecution for the due keeping and preservation thereof ;

or if the distress is not immediately withdrawn when any provision of this Act requires such withdrawal,—

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

LXXX. If any person not empowered by this Act to distrain or sell, nor duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of such property may institute a suit to recover compensation from the person so distraining or selling, for any injury which the plaintiff has sustained from the distress or sale.

Suit for distress or sale falsely purporting to be under this Act.

Such suit shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

LXXXI. If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of such resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

Procedure in case of resistance to distress.

If the case cannot be at once heard and determined, the Court may, if it think fit, require the party arrested to give security for his person, whenever the same may be required, and, in default of such security, may commit him to the civil jail until the case is tried.

Punishment of offender.

LXXXII. If such resistance or removal of property be proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made: Provided that no such imprisonment shall continue for more than six months.

CHAPTER VII.

JURISDICTION OF THE COURTS.

Suits cognizable.

Suits cognizable under this Act.

LXXXIII. The Courts of Revenue in Oudh shall take cognizance of the following descriptions of suits, and such suits shall be heard and determined in the said Courts in the manner provided in this Act, and not otherwise:—

A.—Suits by a Landlord.

(1.)—For the delivery by a tenant of the counterpart of a lease under section 9;

(2.)—For arrears of rent;

(3.) For the enhancement of the rent of a tenant having a right of occupancy;

(4.)—For the ejectment of a tenant or for cancelling any lease on account of the non-payment of arrears of rent or on account of a breach of the conditions of such lease;

(5.)—Suits by landlords against patwáris or agents employed by landlords in the management of land or the collection of revenue or rent, or against the sureties of such patwáris or agents for money received or accounts kept by such patwáris or agents in the course of such employment, or for papers in their possession, or for the rendering and settlement of accounts.

B.—Suits by an Under-Proprietor or a Tenant.

(6.)—For establishing a right of occupancy;

(7.)—For the delivery by a landlord of a lease;

(8.)—For contesting a notice of ejectment;

(9.)—For compensation—

on account of illegal enforcement of payment of rent, or of any sum in excess of rent due,

or on account of the refusal of receipts or acknowledgments for rent paid or tendered,

or on account of illegal ejectment,

or on account of the value of standing crops under section 46;

(10.)—For the recovery of the occupancy of any land from which an under-proprietor or tenant has been illegally ejected by the landlord;

(11.)—For contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of the said power, or for compensation for illegal distraint;

(12.)—For abatement of rent in accordance with the provisions of section 19;

(13.)—For the recovery of compensation for improvements in accordance with the provisions of section 22.

C.—Suits regarding the Division or Appraisement of Produce.

(14.)—Suits under section 31, regarding the division, estimate, or appraisement of the produce of land.

D.—Suits by and against Lumberdárs, Co-sharers, and Muáfidárs.

(15.)—Suits by a sharer against a lumberdár or co-sharer for share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of such profits.

(16.)—Suits by a lumberdár or pattídár who is entitled to collect the rents of the pattí, for arrears of revenue or rent payable through him by the co-sharers whom he represents, and by a lumberdár for village-expenses and other dues for which the co-sharers may be responsible to him, or against a joint lumberdár for compensation for revenue or rent paid by such lumberdár on account of such joint lumberdár;

(17.)—Suits by co-sharers against lumberdárs, or by proprietors or lessees against muáfidárs or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the refusal of receipts or acknowledg-limits for revenue or rent paid or tendered;

(18.)—Suits by muáfídárs or assignees of revenue for arrears of revenue.

Grades of Courts.

LXXXIV. For the purposes of this Act, the Courts of Revenue shall consist of six grades of Courts, namely—

(1.)—The Court of the Assistant Collector of the second class;
(2.)—The Court of the Assistant Collector of the first class;
(3.)—The Court of the Deputy Collector;
(4.)—The Court of the Collector;
(5.)—The Court of the Commissioner;
(6.)—The Court of the Financial Commissioner.

Grades of Courts for the purposes of this Act.

LXXXV. Subject to any orders that may from time to time be issued by the Governor-General in Council, the Chief Commissioner of Oudh shall have power to declare to which of the first three grades any Assistant Commissioner shall belong, and to invest any Tahsíldár with the powers of any of the same grades.

Chief Commissioner may declare grade of Tahsíldár or Assistant Commissioner.

LXXXVI. The Deputy Commissioner shall exercise the powers of a Collector under this Act.

Deputy Commissioners to have Collector's powers.

LXXXVII. Subject to any orders in this behalf that may from time to time be made by the Governor-General of India in Council, the Chief Commissioner of Oudh may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector, or Deputy Collector, or Assistant Collector, under this Act.

Settlement Officers may be invested with powers of Collector, &c., under this Act.

LXXXVIII. The Court of the Assistant Collector of the second class shall have power to try and determine suits of the descriptions mentioned in clauses 1, 2, 7, 12, 15, 16, 17, and 18 of section 83, of which the subject-matter does not exceed one hundred rupees in value or amount.

Jurisdiction of Assistant Collector of the second class.

LXXXIX. The Court of the Assistant Collector of the first class shall have power to try and determine suits of the descriptions referred to in the last preceding section, of which the subject-matter does not exceed five hundred rupees in value or amount.

Jurisdiction of Assistant Collector of the first class.

XC. The Court of the Deputy Collector shall have power to try and determine suits of every description, of which the subject-matter does not exceed five thousand rupees in value or amount.

Jurisdiction of Deputy Collector.

XCI. The Court of the Collector shall have power to try and determine suits of every description and of any amount, and to hear appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure as applied by this Act) from the orders of the Assistant Collectors, and, in suits under clauses 2, 5, 9, 11, 14, 15, 16, 17, and 18 of section 83, from such decisions and orders of the Deputy Collectors.

Jurisdiction of Collector.

Whenever the state of the public business requires it, the Chief Commissioner may invest any Deputy Collector with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from the decisions of such Deputy Collector, and may, with the sanction of the Governor-General of India in Council, invest any Collector with all or any of the powers of a Commissioner under this Act.

XCII. The Court of the Commissioner shall have power to hear and determine appeals from decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Collectors and Deputy Collectors, except as otherwise provided in sections 91, 95, and 102.

Jurisdiction of Commissioner.

XCIII. The Court of the Financial Commissioner shall have power to hear and determine appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also special appeals, as provided in the said Code, from the decisions passed in regular appeal by the Collectors and by the Commissioners.

Jurisdiction of Financial Commissioner.

Appeals.

XCIV. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented to the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum within such period; that is to say, thirty days if the appeal lie to the Collector, six weeks if the appeal lie to the Commissioner, and ninety days if the appeal lie to the Financial Commissioner.

Time for presenting appeals.

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Applications for the admission of special appeals shall be presented in the Court of the Financial Commissioner within the period hereinbefore fixed for the presentation of a memorandum of appeal.

No appeal, except in certain cases, from Collector's decree for money below one hundred rupees.

XCV. In suits under clauses 2, 5, 9, 11, 14, 15, 16, 17, and 18 of section 83, and in appeals from decisions in such suits tried and decided by a Commissioner or Collector, if the amount sued for does not exceed one hundred rupees, the judgment shall be final, except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a tenant, or any question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgment.

In such case the judgment shall be open to appeal in the manner provided in this Act.

Distribution of Business.

Deputy Commissioner may distribute business in subordinate Courts.

XCVI. The Deputy Commissioner may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Transfer of Suits and Appeals.

Transfer of suits from subordinate Courts to Commissioner's or Collector's Court.

XCVII. The Commissioner or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent to try the same.

Withdrawal or reference of appeals.

The Commissioner may also withdraw any appeal instituted in the Court of any Collector subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Collector in his Division.

Financial Commissioner may transfer suits and appeals from one subordinate Court to another.

XCVIII. The Financial Commissioner may order that any suit or appeal which shall be instituted in or presented to any Court subordinate to him, shall be transferred to any other such Court competent to try or hear the subject-matter of the same.

Miscellaneous.

General subordination of Courts.

XCIX. In the performance of their duties under this Act, the Collectors shall be subject to the direction and control of the Commissioners and of the Financial Commissioner; and the Deputy Collectors and Assistant Collectors shall be subject to the direction and control of the Deputy Commissioners to whom they are respectively subordinate:

Proviso.

Provided that nothing in this section shall empower the Financial Commissioner or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

Suits by or against managing agents or tahsildárs of khám estates.

C. All suits which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or tahsildárs of estates held under khám management, whether such estates are the property of Government or not.

Sharer to exercise certain powers only through manager or lumberdár.

CI. No sharer in a joint estate, under-proprietary or other tenure, in which a division of land has not been made among the sharers, shall exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

In pattidári estates or tenures such powers shall be exercised only through a lumberdár, or through the pattidár who is entitled to collect the rents of the patti.

Recovery of land of which applicant has been illegally dispossessed.

CII. If any landlord, under-proprietor, or tenant, has, without his consent, been dispossessed of any land otherwise than by due course of law, such landlord, under-proprietor, or tenant, or any person claiming through him, shall be entitled to recover possession thereof, notwithstanding any other title has been set up, provided that he makes application to the Court to recover possession of the land within three months from the time of the dispossession.

But nothing in this section shall bar the person from whom possession has been so recovered, or any other person, from instituting a suit to establish his title to such land and to recover possession thereof.

The application mentioned in the first clause of this section shall be heard by the Collector or Deputy Collector only, and no appeal shall lie from any order passed thereon, nor shall any review of such order be allowed.

Courts may sit anywhere within limits of their jurisdiction.

CIII. The Courts may sit for the hearing and determining suits and appeals, and for disposing of other business under this Act, in any place within the local limits of their respective jurisdictions:

Provided that every hearing and decision shall be in open Court, and that the parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

CHAPTER VIII.

LIMITATION OF SUITS.

CIV. Except as herein otherwise provided, and subject to the provisions as to legal disability contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall be instituted within one year from the date of the accruing of the cause of action.

General limitation.

CV Suits for the delivery of leases or the counterparts of leases may be instituted at any time during the tenancy.

Suits for delivery of leases or counterparts.

CVI. Suits for the recovery of arrears of rent or revenue, or of a share of profits, shall, except in the case mentioned in section 16, be instituted within three years from the date on which the arrear or share of profit claimed shall have become due.

Suits for arrears of rent or revenue, or share of profits.

CVII. Suits for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be brought at any time during the continuance of the agency, or within one year after its determination, or, in the case of claims legally cognizable at the date of the passing of this Act, within one year after such date.

Suits against agents for money, or delivery of accounts or papers.

CVIII. Suits regarding distress under sections 74, 78, 79, or 80, and suits regarding the division, estimate, or appraisement of the produce of land, shall be commenced within three months from the date of the accruing of the cause of action.

Suits regarding distress, division of produce, &c.

CHAPTER IX.

PROCEDURE.

CIX. Subject to the exceptions and provisoes under which the Code of Civil Procedure was extended to Oudh, as contained in the notification re-published in schedule D hereto annexed, the provisions of the said Code shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals, and proceedings under this Act:

Civil Procedure Code to be the procedure under this Act.

Provided that the said notification shall be read as if the words "Financial Commissioner" were substituted for the word "Judicial Commissioner," and that section 244 of the said Code shall be read as if, for the word "Court," the word "Commissioner" were substituted:

Provided also, that the words "ancestral property" in the said notification shall be held to include the property in land of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59.

CX. In addition to the particulars required by section 26 of the said Code to be specified in the plaint, the plaint shall contain the following particulars:—

Particulars to be added to plaint.

1st.—The name of the village or estate, and of the pargana, in which the land to which the suit relates is situate;

2nd.—If the suit be for the recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice for the ejectment of a tenant, or for the recovery of the occupancy or possession of any land, the plaint shall specify the extent, situation, and designation of the land to which the suit relates, and, where fields have been marked in a Government survey, the number (if it be possible to give it) of each field;

3rd.—If the suit be for the recovery of an arrear of rent or revenue, the plaint shall specify the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due;

4th.—If the suit be for the delivery of a lease or the counterpart of a lease, the plaint shall specify all the particulars mentioned in section 7.

CXI When in any suit between a landlord and an under-proprietor or tenant the right to receive the rent of the land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed such rent up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be enquired into, and the suit shall be decided according to the result of such inquiry:

Third person claiming rent to be made a party.

Provided always, that the decision of the Court shall not affect the right of any party having a legal right to the rent of such land to establish his title thereto in a Court of competent jurisdiction.

Summons to defendant to be for final disposal.

CXII. In all suits under this Act, the summons to the defendant shall be for the final disposal of the suit.

Set-off in suits for arrears of rent.

CXIII. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim, except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

Defendant may pay money into Court.

CXIV. In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim, together with the costs incurred by the plaintiff up to the time of such deposit.

Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

Procedure for balance where defendant pays less than amount claimed.

CXV. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in section 114 shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

Dismissal of suit for lease or counterpart, in absence of written evidence of agreement.

CXVI. If a tenant not having a right of occupancy institute a suit against a landlord for the delivery of a lease, or a landlord institute a suit against a tenant not having a right of occupancy for the delivery of the counterpart of a lease, and the parties do not agree in respect of the particulars which such lease or counterpart is to contain, the Court shall dismiss the suit unless evidence in writing is produced which shall satisfy the Court that an agreement has been entered into between the parties in accordance with which such lease or counterpart ought to be delivered.

Collector may make local enquiry.

CXVII: The local enquiry described in section 180 of the Code of Civil Procedure may also, if he think fit, be made by the Collector in person or other officer presiding in the Court, and the provisions of the said Code regarding local inquiries shall apply to such inquiries made by such Collector or other officer.

In such cases the Collector or other officer as aforesaid, after completing the enquiry, shall record on the proceedings such observations as he thinks fit, and the observations so recorded shall be received as evidence in the suit.

As to Decrees.

Time within which execution may be had.

CXVIII. No process of execution shall be issued on a decree under this Act after the lapse of three years from the date of such decree.

Immediate execution of decree.

CXIX. When a decree for money is made in any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 13 of Act No. XXIII of 1861 *(to amend Act VIII of 1859)*.

Decree for enhancement to state date from which it is to take effect.

CXX. When a decree in favour of the plaintiff is made in a suit for an enhancement of rent, the Court shall declare the date from which such enchancement shall take effect.

Enforcement of decree for delivery of papers of accounts

CXXI. If the decree be for the delivery of papers or accounts, it may be enforced by the imprisonment in the civil jail of the party against whom it is made, or by the attachment of his property, or by both imprisonment and attachment.

The imprisonment and attachment may be continued until he complies with the terms of the decree:

Provided that no person shall be imprisoned under this section for a longer period than six months.

Decree for lease or counterpart to specify particulars.

CXXII. A decree for the delivery of a lease or of the counterpart of a lease shall specify all the particulars mentioned in section 7, and such other particulars as to the Court seem fit.

Court after decree may grant lease or counterpart, in case of defendant's refusal.

CXXIII. If the decree be for the delivery of a lease or the counterpart of a lease, and the party ordered to deliver such lease or counterpart neglects or refuses so to do, the Court may grant a lease or counterpart in conformity with the terms of the decree, and such lease or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

Execution to be first made against moveable property.

CXXIV. If the decree be for money, no process in execution shall issue against the immoveable property of the judgment debtor, other than attachment of such property, unless satisfaction of the decree cannot be obtained against his moveable property.

CXXV. If the decree be for an arrear of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in such right may, subject to the provisions of this Act, be sold in execution of the decree :

Sale of under-proprietary right in execution of decree for arrears of rent.

Provided that no such sale shall be allowed unless it appear to the Deputy Commissioner that satisfaction of the decree cannot be made in the manner referred to in sections 243 and 244 of the Code of Civil Procedure.

If it appear to the Court that such satisfaction can be made, the Court may exercise the powers given to it by the said section 243, although no application has been made by the judgment-debtor.

The Deputy Commissioner may be appointed manager under the same section. When he has been so appointed, he may exercise, for the satisfaction of the decree against the judgment-debtor, all the powers which, under any law in force in Oudh, he might have exercised for the recovery of an arrear of revenue due by such judgment-debtor to the Government.

Appointment of Deputy Commissioner as manager.

CXXVI. No beneficial lease or other incumbrance hereafter created on his tenure by any under-proprietor shall be valid, in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless such incumbrance has been registered, under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of such rights and interests.

Registration of incumbrance created by under-proprietor.

CXXVII. When an under-proprietor creates any such incumbrance, and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or such part as aforesaid of the said rent, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

Proprietor's lien for rent payable by under-proprietor.

CXXVIII. When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

Right of pre-emption at execution-sales.

If the land be an under-proprietary tenure, a like claim may also be made by the proprietor.

Any claim made under this section shall be allowed : Provided that, if a claim to the same land or lot be made by a proprietor as well as by a co-sharer, the claim of the co-sharer shall be preferred : Provided also, that no claim shall be allowed unless the claimant fulfil all the conditions of the sale binding on a purchaser.

SCHEDULE A.*

(See section 15.)

I, *A. B.*, of &c., solemnly declare that I did personally [*or* by my agent *C. D.*] on the day of tender payment to *E. F.* at (the place where the { revenue / rent } of the lands at , held [*or* cultivated] by me under [*or* from *or* jointly with] the said *E. F.*, are usually payable) of the sum of rupees as and for the whole amount due from me in respect of the { revenue / rent } of the said lands from the month of to the month of both inclusive. I further declare that the said *E. F.* refused to accept the said sum so tendered [*or* to give me a receipt in full, forthwith, for the sum so tendered]. And I declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the { revenue / rent } of the said lands from the month of to the month of both inclusive, and that I owe the said *E. F.* no further sum on account of the { revenue / rent } of the said lands.

I the person named in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

* If this declaration is made by an agent, it must be altered accordingly.

SCHEDULE B.*

(*See section* 15.)

Court of the of dated the day of 187 .

To *E. F.*, of &c.

With reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned, is now in deposit in this Court, and that the above sum will be paid to you or your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said *A. B.* in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE C.

(*See section* 59.)

Office of officer appointed to sell distrained property.

A. B.—Distrainer.

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said *A. B.*, or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 187 .

SCHEDULE D.

(*See section* 109.)

Under the provisions of section 385 of Act No. VIII of 1859, and section 3 of Act No. IV of 1860, His Excellency the Governor-General in Council is pleased to notify that, from first January 1862, Act VIII of 1859 is extended to the province of Oudh, subject to the following exceptions and provisoes :—

1. Section 3 shall be subject to the following proviso :—

Provided that the Judicial Commissioner or any other Court exercising any appellate jurisdiction within the province of Oudh, may, at any time within one year from the time of the passing or execution of any judgment or order by any Court subordinate to the said Appellate Court, call for such judgment or proceedings without any regular appeal or application for review having been preferred against the same, and may, if he or it shall see sufficient grounds, revise and alter, or reverse or confirm the same. But that in such case, before revising, altering, or reversing any one judgment or order, the said Judicial Commissioner, or it, shall cause the same notice to be given to the party in whose favour the said judgment or order was pronounced, and the same opportunity to such party to be heard in support thereof, and the same proceedings to be taken as if a memorandum of appeal had been filed by the party agrieved thereby.

2. Section 17 is excepted, and the term recognized agent is defined as follows, *viz.*, a permanent servant, partner, relation, or friend, whom the Court may admit as a fit person to represent a party, and especially persons holding powers-of-attorney from absent parties, persons carrying on business on behalf of bankers and traders, managing agents of landholders, nearest male relations of women, and persons *ex officio* authorized to act for Government, or for any Prince or Chief.

3. Section 3 shall be subject to the following limitation :—It shall not be obligatory on the Court to decide *ex parte* in the absence of defendant, but the Court may proceed to compel his attendance under the following rule, being the rule now in force in Oudh :—

Rule.—If the defendant does not appear, it shall be at the discretion of the Court to issue a warrant to arrest him and detain him till another day appointed for the hearing of the case, and to attach his property.

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* This is to be by endorsement on a copy of the declaration under schedule A made by the person paying the money into Court.

4. Section 172.—So such of this section as requires that the whole of the evidence shall be taken down in writing in the language in ordinary use is excepted, and the record made by the hand of the Judge, under the following rule, being the rule now in force in Oudh, shall be taken as a record of the evidence :—

Rule.—An intelligible note of the essential points of the evidence of each witness is to be taken at the time and in the course of oral examination by the officer who tries the case, in his own language. The notes must be legible, complete, and properly arranged ; must attest the presence of the witness at the time ; and mark every postponement and change of time and scene, so that their *bonâ fide* character may be apparent. Every essential point must be noted, but mere surplusage may be omitted. These notes shall be filed, and shall form part of the case : Provided that in cases tried by a European officer, who has not passed the examination in the native languages prescribed for Assistant Commissioners exercising special powers, the evidence of witnesses shall also be recorded at length in their own language.

Section 205.—So much of this section as renders land liable to sale in execution of a decree will be subject to the restrictions on the sale of land prescribed by the following rule, being the local rule now in force in Oudh :—

Rule.—No ancestral property in land shall be sold in satisfaction of a decree, without the sanction of the Judicial Commissioner ; and before acquired property in land shall be so sold, the permission of the Divisional Commissioner shall be obtained.

ACT No. XXII OF 1868.

(Received the assent of the Governor-General on the 10th September 1868.)

An Act to bring the Mauza Kheria, in the District of Agra, under the operation of the general Regulations.

1. *Extension to Mauza Kheria of Acts and Regulations in force in District of Agra.*
2. *Commencement of Act.*

It is hereby enacted as follows :—

I. The Mauza Kheria shall be deemed to be annexed to the District of Agra, and the laws and regulations established for the internal administration of the said District shall have full force and effect in the said Mauza ; and the administration of civil and criminal justice, and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent in the said Mauza, are hereby vested in the officers for the time being appointed by the Lieutenant-Governor of the North-Western Provinces for the said District of Agra.

Extension to Mauza Kheria of Acts and Regulations in force in the District of Agra.

II. This Act shall be deemed to have come into operation on the twenty sixth day of July 1866.

Commencement of Act.

ACT No. XXIII OF 1868.

(Received the assent of the Governor-General on the 24th September 1868.)

An Act to give validity to certain Abkárí Rules in British Burmah.

1. *Validation of Abkárí Rules published in* British Burmah Gazette *of 29th February* 1868.
2. *Validation of previous Rules.*
3. *Indemnification of officers and farmers.*

WHEREAS Rules for the sale in British Burmah of wine, beer, spirituous and fermented liquors, and intoxicating drugs, have, from time to time, been made and published under the authority of the Chief Commissioner of British Burmah, and it is expedient to give such Rules as last published under the authority aforesaid, the force of law, * * * It is hereby enacted as follows :—*

Validation of Abkári Rules published in *British Burmah Gazette* of 29th February 1868.

I. The Rules for the sale of wine, beer, spirituous and fermented liquors, and intoxicating drugs in British Burmah, published in the number of the *British Burmah Gazette*, dated the twenty-ninth day of February 1868, shall, from the thirty-first day of March 1868 down to the passing of this Act, be deemed to have had the force of law, and shall continue in force until the Governor-General of India in Council, by notification in the *Gazette of India*, shall otherwise order.

II. *Repealed by Act XIV of* 1870.

Indemnification of officers and farmers.

III. All officers, farmers, and other persons, are hereby indemnified for anything done before the passing of this Act, which might lawfully have been done if this Act had been in force ; and no suit or other proceeding shall be maintained against any such officer, farmer, or other person in respect of anything so done.

ACT No. XXIV OF 1868.

(Received the assent of the Governor-General on the 1st October 1868.)

An Act to prohibit the practice of inoculation in Kumaon and Garhwál.

1. *Penalty for inoculating.*
2. *Penalty on inoculated person entering place to which Act extends.*
3. *Reward to informer.*
4. *Extent of Act.*

Preamble.

WHEREAS it is expedient to prohibit the practice of inoculation with the small-pox in the Districts of Kumaon ond Garhwál ; It is hereby enacted as follows :—

Penalty for inoculating.

I. Whoever produces or attempts to produce in any person, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding three months, or to fine not exceeding two hundred rupees, or to both.

Penalty on inoculated person entering place to which Act extends.

II. If any person having been inoculated with the small-pox in a place to which this Act does not extend, shall afterwards enter any place to which this Act extends, before the date of forty days from the date of such inoculation, or without a certificate from a qualified Medical Officer, that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Reward to informer.

IXI. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half of such fine to the person on whose information the offender has been convicted.

Extent of Act.

IV. This Act extends only to the Districts of Kumaon and Garhwál.

ACT No. XXVI OF 1868.

(Received the assent of the Governor-General on the 15th October 1868.)

An Act to enable Municipalities to provide for Lock-Hospitals.

1. *Power to Municipal Committees to devote funds to maintaining Lock-Hospitals, &c.*

* The words omitted from the preamble have been repealed by Act XIV of 1870.

WHEREAS it is expedient to enable all Municipalities in British India to provide out of the Municipal Funds for the maintenance of Lock-Hospitals, and generally for the prevention of contagious venereal disease; It is hereby enacted as follows:—

Power to Municipal Committees to devote funds to maintaining Lock-Hospitals, &c.

I. Notwithstanding anything contained in any Act of the Governor-General of India in Council, of the Governor of Madras in Council, of the Governor of Bombay in Council, of the Lieutenant-Governor of Bengal in Council, or in any other law for the time being in force,

it shall be lawful for every Municipal Corporation, Municipal Committee, or other body of persons duly appointed to conduct the affairs of a municipality in British India, to pay, with the previous sanction of the Local Government, out of the funds at their disposal

towards the maintenance of the Hospital provided under section 12 of Act No. XIV of 1868 *(for the prevention of certain contagious diseases)* within the limits of the place for which they are so appointed,

and towards defraying the cost of the medical treatment, lodging, clothing, and food of the women detained in such hospital, and of the allowance provided under section 19 of the same Act for the subsistence of prostitutes residing within the limits aforesaid,

such part as may from time to time be agreed on, by and between the Corporation, Committee, or Body, and the Local Government, of the total cost of the said maintenance, treatment, lodging, clothing, food, and allowance as annually estimated by such Government.

ACT No. XXVII OF 18(

(Received the assent of the Governor-General on the 21st October 1868.)

An Act to exempt certain instruments from the Indian Registration Act, 1866.

Bill No. 24 of 1870 proposes to repeal this Act.

ACT No. XXVIII OF 1868.

(Received the assent of the Governor-General on the 21st October 1868.)

An Act to define and amend the law relating to the tenancy of land in the Panjab.

1. *Short title. Extent of Act.*
2. *Saving of Decrees and of agreements between landlords and tenants.*
3. *Interpretation-clause. "Land." "Rent." "Arrear of rent." "Tenant." "Landlord." "Grand-father," "uncle" and "grand-uncle." "Representative."*
4. *Repeal of Book Circular No. 33 of 1870.*
5. *Tenants having right of occupancy.*
6. *Presumption arising from entry in settlement record. Rebuttal of Presumption.*
7. *Right of occupancy in land taken in exchange.*
8. *Suits to establish rights of occupancy on other grounds.*
9. *Non-acquisition of right of occupancy by lapse of time.*
10. *Decree for enchancement of rent.*
11. *Grounds of enchancement.*
12. *Enhancement when tenant pays revenue or cesses.*
13. *Suit for re-enhancement.*
14. *Grounds of right to abatement.*

15. *When Court may allow remission from rent.*
16. *Commutation of rent in kind.*
17. *Division and appraisement of produce taken for rent.*
18. *Procedure in case of dispute.*
19. *Ejectment of tenant with right of occupancy.*
20. *Ejectment of tenent without right of occupancy.*
21. *Time of ejectment.*
22. *Notice of ejectment.*
23. *Service of notice.*
24. *Power to alter dates for suing to dispute, and for serving notice of ejectment.*
25. *Cessation of tenancy on failure to contest notice.*
26. *When assistance to eject may be given by Court.*
27. *Compensation to ejected tenant for growing crops.*
28. *Relinquishment of land by tenant.*
29. *Power to fix commencement of agricultural year for purposes of section* 28.
30. *Discharge of tenant.*
31. *Refusal to receive notice.*
32. *Right to let or under-let. Saving of agreements not to let or sub-let.*
33. *Liability of lessee and under-lessee.*
34. *Right of tenant to alienate. Landlord's right of pre-emption.*
35. *Rights and liabilities of tenant's alienee.*
36. *Succession to right of occupancy.*
37. *Tenant's right to compensation for improvements.*
38. *"Improvements" defined.*
39. *Compensation how made.*
40. *Provision for difference as to amount or value of compensation.*
41. *Tender of lease for twenty years to bar right to claim compensation.*
42. *Civil Courts to hear cases under certain sections. Applications under certain sections to be proceedings on Revenue side.*
43. *Stamp on certain plaints.*
44. *Saving of procedure for recovery of rent.*
45. *Confirmation of proceedings of settlement officers.*

Preamble.

WHEREAS it is expedient to define and amend the law relating to certain matters connected with the tenancy of land in the Panjab; It is hereby enacted as follows :—

CHAPTER I.

PRILIMINARY.

Short title. Extent of Act.

I. This Act may be called "The Panjab Tenancy Act, 1868," and shall extend only to the territories for the time being under the Government of the Lieutenant-Governor of the Panjab.

Saving of decrees and of agreements between landlords and tenants.

II. Nothing contained in this Act shall affect the operation of any decree of Court under which a tenant holds, or of any agreement between a landlord and a tenant, when such agreement is in writing or recorded by the proper officer in the record of a regular settlement sanctioned by the Local Government.

All entries in such record in respect of matters comprised in chapters III, IV, V, and VI of this Act shall, when attested by the proper officer, be deemed to be agreements within the meaning of this section.

Interpretation-clause.

III. In this Act, unless there be something repugnant in the subject or context—

"Land."

"Land" means immoveable property for the time being subject to a settlement, whether regular or summary, of land-revenue ;

"Rent."

"Rent" means whatever is payable by an occupant of land on account of the use or occupation thereof ;

"Arrear of rent."

Any instalment of rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of rent ;

"Tenant."

"Tenant" means any occupant of land liable to pay rent therefor, but does not include an under-proprietor ;

"Landlord."

"Landlord" means any person entitled to receive rent payable by a tenant ;

"Grand-father," "uncle," and "grand-uncle."

"Grand-father" includes the father of an adoptive father, "uncle" the brother of an adoptive father, and "grand-uncle" the adoptive father of an uncle ;

"Representative."

"Representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person.

IV. *Repealed by Act XIV of* 1870.

CHAPTER II.

Of Rights of Occupancy.

V. Every tenant who—

Tenants having right of occupancy.

(1.) has heretofore paid no rent and rendered no service, in respect of the land occupied by him, to the proprietor thereof for the time being, beyond the amount of land-revenue and village-cesses for the time being chargeable thereon, and whose father and grand-father, uncle and grand-uncle occupying the same land have paid no rent and rendered no service in respect thereof to such proprietor, beyond the amount aforesaid ;

(2.) or who has involuntarily parted or shall involuntarily part with proprietary rights in any land otherwise than by forfeiture to Government ; and who has continuously occupied or shall continuously occupy such land or any part thereof from the time of such parting ;

(3.) or who is, at the date of the passing of this Act, the representative of a person who settled as a cultivator in the village in which the land occupied by such tenant is situate along with the founders of the village ;

(4.) or who is or has been jágírdár of the village or any part of the village in which the land occupied by him as tenant is situate, and who has continuously occupied such land for not less than twenty years—

shall be deemed to have a right of occupancy in the land so occupied.

Presumption arising from entry in settlement record.

VI. Every tenant whose name appears in the records of a regular or revised settlement heretofore sanctioned by the Local Government, as having a right of occupancy in land which he or the person from whom he has immediately inherited has continuously occupied from the entry of his name or the name of such person (as the case may be) in such settlement, shall be presumed to have a right of occupancy in the land so occupied, unless the landlord shall in a regular suit prove—

Rebuttal of presumption.

(1.) that, within the thirty years immediately before the institution of such suit, other tenants of the same class in the same or in adjacent villages have ordinarily been ejected from their holdings at the will of the landlord ; or

(2.) that the tenant has voluntarily admitted, before any officer employed in making or revising a regular settlement of land-revenue or before any officer authorized to attest the entries in the record of such settlement, that he is a tenant not having a right of occupancy, and that such admission has been recorded at the time by the officer so employed or authorized.

Right of occupancy in land taken in exchange.

VII. If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall, for the purposes of this Act, be held to be subject to the same right of occupancy as the land given in exchange would have been subject to if the exchange had not taken place.

Suits to establish rights of occupancy on other grounds.

VIII. Nothing herein contained shall be deemed to preclude any person claiming a right of occupancy on any ground other than the grounds hereinbefore specified from suing to establish such right.

Non-acquisition of right of occupancy by lapse of time.

IX. No tenant shall be deemed to acquire a right of occupancy by mere lapse of time.

And no right of occupancy in the common lands belonging to a pattídári village community shall be acquired under this chapter.

CHAPTER III.

OF RENT.

1.—*Enhancement.*

Decree for enhancement of rent.

X. No tenant shall, in the absence of an agreement or decree of Court to the contrary effect, be held liable, in a suit for arrears of rent in respect of any land, to pay rent exceeding in amount the rent payable by him in respect of such land for the last preceding agricultural year, unless a decree for the enhancement of the rent has been made as hereinafter provided.

The said Lieutenant-Governor shall have power, from time to time, by notification in the official *Gazette*, to declare for all or any of the districts under his government the day on which the agricultural year shall, for the purposes of this section, be deemed to commence.

Grounds of enhancement.

XI. The Court may decree that the rent previously payable by any tenant having a right of occupancy may be enhanced on any of the following grounds :—

1st Ground.—That the quantity of land held by him as tenant exceeds the quantity for which he has previously been liable to pay rent.

Rule.—In this case the Court shall decree rent for the land in excess at the same rate as that payable in respect of the land of a similar description and with similar advantages held by him of the same landlord.

2nd Ground.—That the rate of rent paid by him is below the rate of rent usually paid in the same or adjoining villages by the same class of tenants having a right of occupancy for land of a similar description and with similar advantages.

Rule.—In this case the Court shall enhance his rent to the amount claimed by the plaintiff not exceeding such rate.

3rd Ground.—That the rate of rent paid by him is—

if he belong to the class described in clause 1 of section 5, more than fifty per centum ;

if he belong to any of the classes specified in clauses 2, 3, or 4 of section 5, more than thirty per centum ;

and if he belong to the class specified in section 6, more than fifteen per centum—

below the rate of rent usually paid in the neighbourhood by tenants of the same class not having a right of occupancy for land of a similar description and with similar advantages.

Rule.—In this case the Court shall enhance his rent to the amount claimed by the plaintiff not exceeding such rate, less fifty per centum, thirty per centum, or fifteen per centum, as the case may be.

Enhancement when tenant pays revenue or cesses.

XII. If the revenue or any of the village-cesses is payable by the defendant, the rate to which his rent may be enhanced shall be reduced by the amount so payable.

Suit for re-enhancement.

XIII. After decree has been passed under section 10, no suit shall lie against the defendant for re-enhancement of his rent until the expiration of five years from the date of such decree, unless in the meantime there has taken place a general revision of regular settlement, under which the revenue payable for the land comprised in the decree has been increased.

2.—*Abatement.*

Grounds of right to abatement.

XIV. Every tenant having a right of occupancy shall be entitled to claim abatement of the rent previously paid by him on either of the following grounds, and on no others :—

(1.) that the area of the land in his occupation has been diminished by diluvion or otherwise, or proved to be less than the quantity for which rent has been previously paid by him ; or

(2.) that the productive powers of such land have been decreased by any cause beyond his control.

3.—*Remission.*

When Court may allow remission from rent.

XV. Notwithstanding anything hereinbefore contained, it shall be lawful for the Court, in making a decree for an arrear of rent—

if the area of the land in the tenant's occupation has been diminished by diluvion or otherwise,

or if the produce of such land has been diminished by drought, or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed—

to allow such remission from the rent payable by him as may appear equitable :

Provided that, if the tenant hold a lease for an unexpired term of not less than five years, or have a right of occupancy, in a revenue-paying estate, no such remission shall be allowed to him, unless a remission of revenue has been allowed on the same ground and by competent authority in respect of the same estate.

4.—*Rent in kind.*

Commutation of rent in kind.

XVI. No commutation of rent in kind into rent in money, and no commutation of rent in money into rent in kind, shall take place without the consent of both the landlord and the tenant.

Division and appraisement of produce taken for rent.

XVII. Whenever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence of the person entitled to the rent and of the cultivator, either personally or by their recognized agents—

if either party neglects to be present at the proper period,

or if a dispute arises between the parties regarding such division, estimate, or appraisement—

either party may present an application to the Court, on a paper bearing a stamp of eight annas, requesting that a proper person be deputed to make the division, estimate, or appraisement.

Procedure in case of dispute.

XVIII. On receiving such application and such sum, to be paid in the first instance by the applicant, as the Court thinks sufficient to defray the costs of

serving the notice and making the award next hereinafter mentioned, the Court shall issue a written notice to the other party, requiring him to attend on the date and at the place specified in the notice, and shall depute a proper person to make the division, estimate, or appraisement, and to direct by whom the costs of each party are to be paid.

The award of such person in respect of the said division, estimate, or appraisement and costs, shall be final, unless within three months from the date thereof either party institutes a suit to set it aside.

CHAPTER IV.

OF EJECTMENT.

Ejectment of tenant with right of occupancy.

XIX. No tenant having a right of occupancy in any land shall be ejected therefrom otherwise than in execution of a decree.

Such decree shall not be made, unless—

(1.) at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards; or

(2.) the landlord tenders to the tenant, in addition to any compensation to which he may be entitled under sections 27 and 37 (but subject to deduction in respect of the arrears of rent, if any, payable by him), such compensation as the Court thinks fit, not less than fifteen, and not more than thirty, times the amount of the net annual profits receivable by the tenant in respect of such land on an average of the three years next before the date of the tender.

Nothing in the last preceding clause shall be deemed to apply to a tenant belonging to any of the classes specified in section 5, or to a tenant when he or the person from whom he has inherited, has continuously occupied such land for thirty years or upwards.

Ejectment of tenant without right of occupancy.

XX. A tenant not having a right of occupancy may be ejected—

1st, if a decree has been obtained against him for arrears of rent or for ejectment; or

2nd, when he is not holding under an unexpired lease, or an agreement, or a decree of Court, by notice given by the landlord in manner hereinafter mentioned.

Time of ejectment.

XXI. Notwithstanding anything herein contained, no tenant shall be ejected from the land in his occupation, except between the fifteenth day of April and the fifteenth day of June, unless, while the rent in respect of such land is in arrear, he has failed to cultivate the land in accordance with the terms on which he holds it.

Notice of ejectment.

Notice of ejectment.

XXII. The notice of ejectment shall be written in the vernacular language of the district: it shall specify the lands from which the tenant is to be ejected; and it shall inform him that, if he means to dispute the ejectment, he must institute a suit for that purpose or on before the fifteenth day of May next after the service of the notice, or quit the land on or before that date.

The said Lieutenant-Governor shall determine what, for the purposes of this section, shall be deemed to be the vernacular language of each district in the territories under his government.

Service of notice.

XXIII. On the landlord's application to the tahsíldár or other officer authorized to serve such notices, the notice shall be served by him on or before the fifteenth day of April, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant.

But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at some conspicuous place in the village wherein the land is situate.

Power to alter date, for suing to disputes and for serving notice of ejectment.

XXIV. The said Lieutenant-Governor shall have power, from time to time, by notification published in the official *Gazette*, not less than six months before such notification is to come into force, to fix, for the purposes of sections 22 and 23, in all or any of the districts under his Government, any two days other than the days fixed in the same sections:

Provided that, between the days so fixed by notification, there shall be an interval of at least one month.

Cessation of tenancy on failure to contest notice.

XXV. If the tenant on whom such notice of ejectment has been served, fails to institute, on or before the fifteenth day of May next, after the service, or, in case the said Lieutenant-Governor fixes, for the purpose of section 22, any day other than the said fifteenth day of May, then, on or before the day so fixed, a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall be held to cease on that day.

Assistance to eject.

When assistance to eject may be given by Court.

XXVI. If no such suit be brought, or if such suit be brought and dismissed, and the landlord require the assistance of the Court to eject any person whose tenancy is alleged to have ceased under the provisions of section 22, he may apply for such assistance; and if the Court be satisfied that notice of ejectment was duly served on such person, it shall, subject to the provisions of section 19, give such assistance accordingly.

Nothing done by the Court under this section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejectment, and to recover compensation for the same.

Growing crops.

Compensation to ejected tenant for growing crops.

XXVII. Any tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant and being on the land at the time of the ejectment:

Provided that, if the land has been sown or planted by the tenant after the service on him of the notice mentioned in section 20, he shall not be so entitled, unless after such service, the landlord has expressly authorized him to continue to occupy the land.

CHAPTER V.

OF RELINQUISHMENT, LEASES AND UNDER-LEASES, ALIENATION AND SUCCESSION.

1.—Relinquishment.

Relinquishment of and by tenant.

XXVIII. Every tenant shall be liable to pay the rent payable in respect of the land in his occupation for the ensuing agricultural year, unless, on or before the first day of January next before the commencement of that year, he gives notice to the landlord of his intention to relinquish such land before the commencement of such year, and relinquishes it accordingly, or unless the land has been let to any other person by the landlord.

Power to fix commencement of agricultural year for purposes of section 28.

XXIX. The said Lieutenant-Governor shall have power, from time to time, by notification in the official *Gazette*, to declare, for all or any of the districts under his Government, the day on which the agricultural year shall, for the purposes of section 28, be deemed to commence, and, in lieu of the said first day of January, to substitute, for the purposes of section 28, in all or any of the same districts, such day as he thinks fit.

Discharge of tenant.

XXX. If the tenant relinquishes the land according to his said notice, he shall be discharged from all liability to pay the rent which would otherwise have accrued due in respect of such land after the date of the relinquishment.

Refusal to receive notice.

XXXI. If the landlord or his recognized agent refuse to receive such notice, the tenant may apply to the tahsíldár or proper officer, and written notice shall thereupon be served by him on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent.

But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at some conspicuous place in the village wherein the land is situate.

2.—Leases and Under-Leases.

Right to let or under-let.

XXXII. Every tenant having a right of occupancy may let or under-let the land in his occupation, or any part thereof:

Saving of agreements not to let or sub-let.

Provided that nothing in the former part of this section shall be deemed to affect any agreement on the part of a lessee that he will not, or will not, without the previous consent of the lessor or his representative, under-let or part with the possession of the said land or any portion thereof.

Liability of lessee and under-lessee.

XXXII. Every person to whom land is let or under-let under section 32 shall, in respect of such land, and so far as regards the landlord and his representative, be subject to all the liabilities under this Act to which the lessor or under-lessor would have been subject in respect of such land, and so far as regards such landlord and his representative, in case the lease or under-lease had not been made.

3.—Alienation.

Right of tenant to alienate.

XXXIV. Any tenant having a right of occupancy claimable in accordance with the terms of any of the clauses of section 5, may alienate the land in his occupation, or any part thereof:

Provided that, in every such case, the land or part aforesaid shall be offered for sale in the first instance to the landlord at the market-value, and shall not be alienated to any other person unless the landlord shall, for the space of one month, refuse or neglect to complete the purchase.

Landlord's right of pre-emption.

Every other tenant may alienate the land in his occupation, or any part thereof, with his landlord's previous consent, but not otherwise.

XXXV Every person, otherthan the landlord, to whom land is alienated under section 34, shall, in respect of such land, have the same rights and be subject to the same liabilities as the tenant making the alienation.

Rights and liabilities of tenant's alienee.

4.—*Succession.*

XXXVI. When a tenant having a right of occupancy in any land dies, his right shall devolve on his male lineal descendants (if any), and, failing such descendants, the right shall go to his male collateral relatives: Provided that the common ancestor of the deceased and his said relatives shall have occupied such land.

Succession to right of occupancy.

As among descendants and collateral relatives claiming under this section, such right shall devolve and go as if it were land left by the deceased in the village in which such land is situate.

CHAPTER VI.

OF COMPENSATION FOR TENANTS' IMPROVEMENTS.

XXXVII. If any tenant, or, in the case of a tenant with a right of occupancy, the person from whom he has inherited, makes any such improvements on the land in his occupation as are hereinafter mentioned, the rent payable by him or his representative in respect of such land shall not be enhanced, nor shal he or his representative be ejected from the same land, unless and until he or his representative, as the case may be, has received compensation for the money or labour, or both, expended in making such improvements by him or the person from whom he has inherited, or whom he represents, within thirty years next before the date of such enhancement or ejectment.

Tenant's right to compensation for improvements.

XXXVIII. The word "improvements," as used in section 37, means works by which the annual letting-value of the land has been, and at the time of demanding compensation continues to be, increased, and shall comprise—

"Improvements" defined.

1*st*, the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells, the reclaiming and clearing of waste lands and other works of a like nature;

2*nd*, the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not required for maintaining the same, and which increase durably their value.

XXXIX. Such compensation may, at the option of the landlord or his representative be made—

Compensation how made.

(1.) by payment in money;

(2.) by the grant of a beneficial lease of the land by the landlord or his representative to the tenant or his representative; or

(3.) partly by payment in money, and partly by the grant of such lease as aforesaid.

XL. In case of difference as to the amount or value of the compensation tendered, either party may present an application to the Court on a paper bearing a stamp of eight annas, stating the matter in dispute, and requesting a determination thereof.

Provision for difference as to amount or value of compensation.

Notice of such application shall be served on the other party by the proper officer, and the applicant shall pay the costs of service.

On receiving such application, the Court, after taking such evidence as the parties or either of them may adduce, and after making such further enquiry (if any) as it may deem necessary, shall determine (as the case may be) the amount of the payment or the terms of the lease, or both:

Provided that, in determining such amount or value, the Court shall take into account any assistance given by the landlord, either directly by money, material or labour at the time of making such improvements, or indirectly by subsequently allowing the tenant to hold at a rate of rent more favourable than the rate at which he otherwise would have held.

XLI. If in any case a landlord tenders to a tenant a lease of the land in his occupation, for a term of not less than twenty years from the date of the tender, at the annual rent then paid by the tenant, or at such other annual rent as may be agreed upon, such tender, if accepted by the tenant, shall bar any claim by

Tender of lease for twenty years to bar right to claim compensation.

him or his representative in respect of improvements previously made on such land by the tenant or the person from whom he has inherited.

CHAPTER VII.

OF PROCEDURE.

Civil Courts to hear cases under certain sections.

XLII. Cases cognizable under sections 5, 6, 11, 14, 19, 20, and 25, shall, unless otherwise provided for by any law for the time being in force, and subject to the provisions of section 21 of Act No. XIX of 1865 *(to define the jurisdiction of the Courts of Judicature of the Panjab and its Dependencies)*, be heard in the Civil Courts other than the Courts of Small Causes, unless when such Courts of Small Causes shall have been specially empowered by the Local Government under Act No. XI of 1865, section 6, to hear such cases.

Applications under certain sections to be proceedings on Revenue side.

Applications under sections 17, 23, 26, and 31, shall be deemed to be proceedings on the Revenue side: they shall be subject to the rules of procedure for the time being in force in such cases; and all orders on such applications shall be appealable to the Financial Commissioner of the Panjab.

Stamp on certain plaints

XLIII. The plaint in every suit under sections 5, 6, 11, 14, and 25, shall bear a stamp of eight annas.

Saving of procedure for recovery of rent.

XLIV. The procedure now in force in the Panjab for the recovery of rent shall, except in so far as it is inconsistent with the provisions of this Act, continue to be in force.

Confirmation of proceedings of settlement officers.

XLV. All proceedings of officers of Government in making or revising, prior to the passing of this Act, settlements of land-revenue, shall, so far as such proceedings are consistent with the provisions of this Act, and subject to appeal and revision when an appeal or a revision is provided, be deemed to have been taken in accordance with law.

OUDH ESTATES' ACT, 1869.

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ACT No. I OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th January 1869.)

An Act to define the rights of Taluqdárs and others in certain estates in Oudh, and to regulate the succession thereto.

Preamble.

WHEREAS, after the re-occupation of Oudh by the British Government in the year 1858, the proprietary right in divers estates in that province was, under certain conditions, conferred by the British Government upon certain Taluqdárs and others; and whereas doubts may arise as to the nature of the rights of the said Taluqdárs and others in such estates, and as to the course of succession thereto; and whereas it is expedient to prevent such doubts, and to regulate such course, and to provide for such other matters connected therewith as are hereinafter mentioned; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. Extent of Act.

I. This Act may be cited as "The Oudh Estates' Act, 1869," and shall extend only to the estates hereinafter referred to.

Interpretation-clause.

II. In this Act, unless there be something repugnant in the subject or context—

"Transfer."

"Transfer" means an alienation *inter vivos*;

"Will."

"Will" means the legal declaration of the intentions of the testator with respect to his property affected by this Act, which he desires to be carried into effect after his death;

"Codicil."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions: It is considered as forming an additional part of the Will;

"Signed."

"Signed" applies to the affixing of a mark;

"Registered."

"Registered" means registered according to the provisions of the rules relating to registration of assurances for the time being in force in Oudh;

"Minor." "Minority."

"Minor" means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person;

"Taluqdár."

"Taluqdár" means any person whose name is entered in the first of the lists mentioned in section eight;

"Grantee."

"Grantee" means any person upon whom the proprietary right in an estate has been conferred by a special grant of the British Government, and whose name is entered in the fifth or sixth of the lists mentioned in section eight;

"Estate."

"Estate" means the taluqa or immoveable property acquired or held by a Taluqdár or Grantee in the manner mentioned in section three, section four, or section five, or the immoveable property conferred by a special grant of the British Government upon a Grantee;

"Heir" means a person who inherits property otherwise than as a widow, under the special provisions of this Act; and "legatee" means a person to whom property is bequeathed under the same provisions; "Heir." "Legatee."

Words expressing relationship denote only legitimate relatives, but apply to children in the womb who are afterwards born alive. Words expressing relationship.

CHAPTER II.

RIGHTS AND LIABILITIES OF TALUQDARS AND GRANTEES.

III. Every Taluqdár with whom a summary settlement of the Government revenue was made between the first day of April 1858 and the tenth day of October 1859, or to whom, before the passing of this Act and subsequently to the first day of April 1858, a taluqdárí sanad has been granted, Taluqdárs to have heritable and transferable rights in their estates.

shall be deemed to have thereby acquired a permanent, heritable and transferable right in the estate comprising the villages and lands named in the list attached to the agreement or kabúliyat executed by such Taluqdár when such settlement was made,

or which may have been or may be decreed to him by the Court of an officer engaged in making the first regular settlement of the province of Oudh, such decree not having been appealed from within the time limited for appealing against it, or, if appealed from, having been affirmed,

subject to all the conditions affecting the Taluqdár contained in the orders passed by the Governor-General of India on the tenth and nineteenth days of October 1859 and re-published in the first schedule hereto annexed, and subject also to all the conditions contained in the sanad under which the estate is held. Subject to certain conditions.

IV. Every person whose lands the proclamation issued in Oudh in the month of March 1858 by order of the Governor-General of India specially exempted from confiscation, and whose names are contained in the second schedule hereto annexed, shall be deemed to possess in the lands for which such person executed a kabúliyat between the first day of April 1858 and the first day of April 1860 the same right and title which he would have possessed thereto if he had acquired the same in the manner mentioned in section three; and he shall be deemed to hold the same subject to all the conditions affecting Taluqdárs which are referred to in the said section, and to be a Taluqdár for all the purposes of this Act. Rights and liabilities of persons named in second schedule.

V. Every Grantee shall possess the same rights and be subject to the same conditions in respect of the estate comprised in his grant as a Taluqdár possesses and is subject to, under section three, in respect of his estate. Grantees' rights and liabilities.

VI. Nothing in sections three, four and five, or in the said orders, or in any sanad, shall be deemed to bar a suit for redemption, Saving of certain redemption-suits.

(*a*) where the instrument of mortgage was executed on or after the thirteenth day of February 1844 and fixed no term within which the property comprised therein might be redeemed, or

(*b*) where the instrument of mortgage fixed a term within which the property comprised therein might be redeemed, and such term did not expire before the thirteenth day of February 1856.

VII. If a Taluqdár or Grantee, or any heir or legatee of a Taluqdár or Grantee, desire that any elephants, jewels, arms or other articles of moveable property belonging to him shall devolve along with his estate, he shall take an inventory of such articles. Such inventory shall be signed by him and deposited in the office of the Deputy Commissioner of the District wherein such estate or the greater part thereof is situate; and thereupon such of the said articles as shall not have been transferred shall (so far as may be possible) be used and enjoyed by the person who, under or by virtue of this Act, is for the time being in actual possession or in receipt of the rents and profits of the said estate or the greater part thereof, otherwise than as mortgagee or lessee. Heirlooms.

CHAPTER III.

LIST OF TALUQDARS AND GRANTEES.

VIII. Within six months after the passing of this Act, the Chief Commissioner of Oudh, subject to such instructions as he may receive from the Governor-General of India in Council, shall cause to be prepared six lists, namely:— Preparation of lists of Taluqdárs and Grantees.

First. A list of all persons who are to be considered Taluqdárs within the meaning of this Act;

Second.—A list of the Taluqdárs whose estates, according to the custom of the family on and before the thirteenth day of February 1856, ordinarily devolved upon a single heir;

Third. A list of the Taluqdárs, not included in the second of such lists, to whom sanads or grants have been or may be given or made by the British Government up to the date fixed for the closing of such lists, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

Fourth.—A list of the Taluqdárs to whom the provisions of section twenty-three are applicable;

Fifth.—A list of the Grantees to whom sanads or grants have been or may be given or made by the British Government, up to the date fixed for the closing of such list, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

Sixth.—A list of the Grantees to whom the provisions of section twenty-three are applicable.

Publication of lists.

9. When the lists mentioned in section eight shall have been approved by the Chief Commissioner of Oudh, they shall be published in the *Gazette of India.* After such publication, the first and second of the said lists shall not, except in the manner provided by section thirty or section thirty-one, as the case may be, be liable to any alteration in respect of any names entered therein.

Supplementary list.

If, at any time after the publication of the said lists, it appears to the Governor-General of India in Council that the name of any person has been wrongly omitted from or wrongly entered in any of the said lists, the said Governor-General in Council may order the name to be inserted in the proper list, and such name shall be published in the *Gazette of India* in a supplementary list, and such person shall be treated in all respects as if his name had been from the first inserted in the proper list.

None but persons named in lists to be deemed Taluqdárs or Grantees.

10. No persons shall be considered Taluqdárs or Grantees within the meaning of this Act, other than the persons named in such original or supplementary lists as aforesaid. The Court shall take judicial notice of the said lists and shall regard them as conclusive evidence that the persons named therein are such Taluqdárs or Grantees.

CHAPTER IV.

POWERS OF TALUQDARS AND GRANTEES TO TRANSFER AND BEQUEATH.

Taluqdárs and Grantees may transfer and bequeath.

11. Subject to the provisions of this Act, and to all the conditions under which the estate was conferred by the British Government, every Taluqdár and Grantee, and every heir and legatee of a Taluqdár and Grantee, of sound mind and not a minor, shall be competent to transfer the whole or any portion of his estate, or of his right and interest therein, during his life-time, by sale, exchange, mortgage, lease or gift, and to bequeath by his will to any person the whole or any portion of such estate, right and interest.

A married woman may make a bequest under this Act of any property which she could alienate by her own act during her life.

Persons who are deaf or dumb or blind are not thereby incapacitated for making a transfer or bequest under this Act, if they are able to know what they do by it.

One who is ordinarily insane may make a transfer or bequest under this Act during an interval in which he is of sound mind.

No person can make a transfer or bequest under this Act while he is in such a state of mind, whether from drunkenness, or from illness, or from any other cause that he does not know what he is doing.

A transfer and will, or any part of a will, the making of which has been caused by fraud or coercion or by such importunity as takes away the free agency of the transferor, or testator, is void.

Rule against perpetuity.

12. No transfer or bequest under this Act shall be valid whereby the vesting of the thing transferred or bequeathed may be delayed beyond the life-time of one or more persons living at the decease of the transferee or testator and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing transferred or bequeathed is to belong.

Restriction as to donees and legatees.

13. No Taluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, shall have power to give or bequeath his estate, or any portion thereof, or any interest therein, to any person not being either—

(1.)—a person who, under the provisions of this Act, or under the ordinary law to which persons of the donor's or testator's tribe and religion are subject, would have succeeded to such estate or to a portion thereof, or to an interest, therein, if such Taluqdár or Grantee, heir or legatee, had died intestate, or

(2.)—a younger son of the Taluqdár or Grantee, heir or legatee, in case the name of such Taluqdár or Grantee appears in the third or the fifth of the lists mentioned in section eight.

except by an instrument of gift or a will executed and attested, not less than three months before the death of the donor or testator, in manner herein provided in the case of a gift or will, as the case may be, and registered within one month from the date of its execution.

CHAPTER V.

TRANSFERS AND BEQUESTS.

Transfers and bequests to Taluqdárs or heirs.

XIV. If any Taluqdár or Grantee shall heretofore have transferred or bequeathed, or if any Taluqdár or Grantee, or his heir or legatee, shall hereafter transfer or bequeath, the whole or any portion of his estate to another Taluqdár or Grantee, or to such younger son as is referred to in section thirteen, clause two, or to a person who would have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transferee or legatee and his heirs and legatees shall have the same rights and powers in regard to the property to which he or they may have become entitled under or by virtue of such transfer or bequest, and shall hold the same subject to the same conditions and to the same rules of succession as the transferor or testator.

Transfers and bequests to persons out of line of succession.

XV. If any Taluqdár or Grantee shall heretofore have transferred or bequeathed, or if any Taluqdár or Grantee or his heir or legatee shall hereafter transfer or bequeath to any person not being a Taluqdár or Grantee the whole or any portion of his estate, and such person would not have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transfer of and succession to the property so transferred or bequeathed shall be regulated by the rules which would have governed the transfer of and succession to such property if the transferee or legatee had bought the same from a person not being a Taluqdár or Grantee.

Transfers to be in writing, signed and attested.

XVI. No transfer of any estate, or of any portion thereof, or of any interest therein, made by a Taluqdár or Grantee, or by his heir or legatee, under the provisions of this Act, shall be valid unless made by an instrument in writing signed by the transferor and attested by two or more witnesses.

Further requisites to validity of gifts *inter vivos*.

XVII. If any such transfer be made by gift, the gift shall not be valid unless, within six months after the execution of the instrument of gift, the gift be followed by delivery by the donor, or his representative in interest, of possession of the property comprised therein, nor unless the instrument shall have been registered within one month from the date of its execution.

Gifts to religious or charitable uses.

XVIII. No Taluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, shall have power to give his estate, or any portion thereof or interest therein, to religious or charitable uses, except by an instrument of gift executed not less than three months before his death, and subject to the provisions contained in section seventeen.

CHAPTER VI.

TESTAMENTARY SUCCESSION.

Sections of Succession Act applied to wills of Taluqdárs.

XIX. Sections 49, 50, 51, 54, 55, and 57 to 77 (both inclusive), and sections 82, 83, 85, and 88 to 98 (both inclusive) of the Indian Succession Act (No. X of 1865), shall apply to all wills and codicils made by any Taluqdár or Grantee, or by his heir or legatee, under the provisions of this Act, for the purpose of bequeathing to any person his estate, or any portion thereof, or any interest therein : Provided that marriage shall not revoke any such will or codicil : Provided also that nothing herein contained shall affect wills made before the passing of this Act.

In applying the said sections to wills and codicils made under this Act, all words hereinbefore defined, and occurring in such sections, shall (unless there be something repugnant in the subject or context) be deemed to have the same meaning as this Act has attached to such words respectively.

Bequests to religious and charitable uses.

XX. No Taluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, having a child, parent, brother, unmarried sister, or a nephew, being the naturally born son of a brother of such Taluqdár or Grantee, heir or legatee, shall have power to bequeath his estate or any part thereof or any interest therein exceeding in amount or value the sum of two thousand rupees to religious or charitable uses,

except by a will executed not less than three months before his death, and registered within one month from the date of its execution.

CHAPTER VII.

INTESTATE SUCCESSION.

'Son,' 'descendants,' 'daughter,' 'brother,' 'widow,' defined.

XXI. In the next following section, unless where there is something repugnant in the context, the words 'son,' 'descendants,' 'daughter' and 'brother' apply only to *najib-ul-tarfain*, and the word 'widow' applies only to a woman belonging to the *ahl-i-brādari* of her deceased husband.

Special rules of succession to intestate Taluqdárs and Grantees.

XXII. If any Taluqdár or Grantee whose name shall be inserted in the second, third, or fifth of the lists mentioned in section eight, or his heir or legatee, shall die intestate as to his estate, such estate shall descend as follows, *viz* :—

(1).—To the eldest son of such Taluqdár or Grantee, heir or legatee, and his male lineal descendants, subject to the same conditions and in the same manner as the estate was held by the deceased;

(2).—Or if such eldest son of such Taluqdár or Grantee, heir or legatee, shall have died in his life-time, leaving male lineal descendants, then to the eldest and every other son of such eldest son successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(3).—Or if such eldest son of such Taluqdár or Grantee, heir or legatee, shall have died in his father's life-time without leaving male lineal descendants, then to the second and every other son of the said Taluqdár or Grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(4).—Or in default of such son or descendants, then to such son (if any) of a daughter of such Taluqdár or Grantee, heir or legatee, as has been treated by him in all respects as his own son, and to the male lineal descendants of such son, subject as aforesaid;

(5).—Or in default of such son or descendants, then to such person as the said Taluqdár or Grantee, heir or legatee, shall have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid;

(6).—Or in default of such adopted son, then to the eldest and every other brother of such Taluqdár or Grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(7).—Or in default of any such brother, then to the widow of the deceased Taluqdár or Grantee, heir or legatee; or, if there be more widows than one, to the widow first married to such Taluqdár or Grantee, heir or legatee, for her life-time only;

(8).—And upon the death of such widow, then to such son as the said widow shall, with the consent in writing of her deceased husband, have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid;

(9).—Or on the death of such first married widow and in default of a son adopted by her with such consent and in such manner as aforesaid, then to the other widow, if any, of such Taluqdár or Grantee, heir or legatee, next in order of marriage, for her life, and on the death of such other widow, to a son adopted by her with such consent and in such manner as aforesaid; or in default of such adopted son, then to the other surviving widows according to their respective seniorities as widows, for their respective lives, and on their respective deaths, to the sons so adopted by them respectively, and to the male lineal descendants of such sons respectively, subject as aforesaid;

(10).—Or in default of any such widow or of any son so adopted by her, or of any such descendant, then to the male lineal descendnts, not being *najib-ul-tarfain*, of such Taluqdár or Grantee, heir or legatee, successively, according to their respective seniorities and their respective male lineal descendants, whether *najib-ul-tarfain* or not;

(11).—Or in default of any such descendant, then to such persons as would have been entitled to succeed to the estate under the ordinary law to which persons of the religion and tribe of such Taluqdár or Grantee, heir or legatee, are subject.

Nothing contained in the former part of this section shall be construed to limit the power of alienation conferred by section eleven.

General rule of succession to intestate Taluqdárs and Grantees.

XXIII. Except in the cases provided for by section twenty-two, the succession to all property left by Taluqdárs and Grantees, and their heirs and legatees, dying intestate, shall be regulated by the ordinary law to which members of the intestate's tribe and religion are subject.

CHAPTER VIII.

MAINTENANCE.

Maintenance of surviving relatives of Taluqdárs and Grantees.

XXIV. When any Taluqdár or Grantee, or his heir or legatee, dies leaving him surviving such relatives as are hereinafter mentioned, the person for the time being in the possession of his estate or the rents and profits thereof shall be liable to pay to each of such relatives during his or her life, or for such other period as is hereinafter mentioned, by twelve equal monthly payments, an annuity in accordance with the custom of the country not exceeding such amount as is hereinafter mentioned: Provided that such relative was at the date of the death of the deceased living together with him: Provided also that such relative is and continues to be without any other adequate means of maintenance.

If any part of such estate shall have been transferred or bequeathed by the deceased, the person for the time being in possession of such part, or of the rents and profits thereof, shall be liable to pay proportionate parts of the said annuities during the continuance thereof respectively.

Grandparents, parents, and senior widows.

XXV. In the case of the grandparents, parents, and senior widows of the deceased, the maximum amount of the annuity shall be as follows:—

(*a.*) where the annual revenue payable to Government in respect of the estate is or exceeds 1,50,000 rupees——a sum not exceeding 6,000 rupees:

(*b.*) where such revenue is or exceeds 100,000 rupees, but is less than 1,50,000 rupees——a sum not exceeding 2,400 rupees:

(*c.*) where such revenue is or exceeds 50,000 rupees, but is less than 100,000 rupees——a sum not exceeding 1,200 rupees:

(*d.*) where such revenue is or exceeds 25,000 rupees, but is less than 50,000 rupees——a sum not exceeding 600 rupees:

(*e.*) where such revenue is or exceeds 15,000 rupees, but is less than 25,000 rupees——a sum not exceeding 360 rupees:

(*f.*) where such revenue is or exceeds 7,000 rupees, but is less than 15,000 rupees——a sum not exceeding 240 rupees; and

(*g.*) where such revenue is less than 7,000 rupees——a sum not exceeding 180 rupees.

Junior widows.

In the case of a junior widow of the deceased, the maximum amount of the annuity shall be one-half of the maximum amount to which a senior widow of the deceased would be entitled under the former part of this section.

Brothers and minor sons.

XXVI. In the case of brothers and minor sons of the deceased, the maximum amount of the annuity shall be a sum not more than 1,200 rupees.

Nephews.

In the case of nephews of the deceased, being fatherless minors, the maximum amount of the annuity shall be a sum not more than 600 rupees.

Unmarried daughters, widows of sons and brothers and inferior widows.

XXVII. In the case of unmarried daughters of the deceased, widows of his sons and brothers, and his widows not of his *ahl-i-brádarí*, the maximum amount of the annuity shall be a sum not more than 360 rupees.

Continuance of annuities.

XXVIII. Subject to the provisions hereinbefore contained, the said annuities shall continue,

(*a*) in the case of a minor son or a minor nephew, till he ceases to be a minor;

(*b*) in the case of a daughter or widow, till she voluntarily leaves the household of the heir or legatee of the deceased, or would, according to the custom of the country, cease to be entitled to maintenance, and

(*c*) in all other cases, till the annuitant dies.

CHAPTER IX.

MISCELLANEOUS.

Muhammadan Taluqdárs and Grantees empowered to adopt.

XXIX. Every Muhammadan Taluqdár, Grantee, heir or legatee, and every widow of a Muhammadan Taluqdár or Grantee, heir or legatee, with the consent in writing of her deceased husband, shall, for the purposes of this Act, have power to adopt a son whenever, if he or she were a Hindú, he or she might adopt a son.

Such power shall be exerciseable only by writing executed and attested in manner required by section nineteen in case of a will and registered.

Alteration of rules of intestate succession in cases of Taluqdárs and Grantees named in list 3 or list 5.

XXX. Any Taluqdár or Grantee whose name has been entered in the third or fifth of the lists mentioned in section eight, or his heir or legatee, may, at any time hereafter, present to the Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of an instrument of gift, that he is desirous that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described

in section twenty-two, and that it shall in future be regulated by the ordinary law to which members of his tribe and religion are subject.

On receiving such declaration, the said Chief Commissioner shall cause to be inserted the name of such Taluqdár or Grantee, heir or legatee, in the fourth or sixth (as the case may be) of the lists mentioned in section eight, and shall cause a note thereof to be made in the proper place in the third or fifth (as the case may be) of the said lists, and the succession to such estate shall thenceforward, in case of intestacy, be regulated in the manner provided by section twenty-three.

Reverter to ordinary of succession.

XXXI. Any Taluqdár or Grantee, heir or legatee, may, at any time hereafter, present to the Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of instruments of gift, that he is desirous that his estate should in future be held subject to the ordinary law of succession to which members of his tribe and religion are subject.

On receiving such declaration, the Chief Commissioner shall cause a note thereof to be made in the proper places in each of the lists mentioned in section eight in which the name of such Taluqdár or Grantee, heir or legatee, has been entered, and thenceforward none of the provisions of this Act shall apply to such estate, which shall thenceforward be held subject in all respects to the ordinary law of succession to which members of his tribe and religion are subject.

Saving of rights of creditors.

XXXII. Nothing hereinbefore contained shall affect any right which the creditors of any person making a transfer or bequest under the provisions of this Act, would have possessed as against the property comprised in such transfer or bequest if this Act had not been passed.

Awards as to compensation and maintenance.

XXXIII. And whereas bodies of Taluqdárs, have in several cases made awards respecting the provision to be made for certain relatives of Taluqdárs, and it is expedient to render such awards legally enforceable; it is hereby further enacted that every such award shall, if approved by the Financial Commissioner of Oudh and filed in his Court within six months after the passing of this Act, be enforceable as if a Court of competent jurisdiction had passed judgment according to the award, and a decree had followed upon such judgment.

SCHEDULES.

FIRST SCHEDULE.

(See section 3.)

I.

From C. Beadon, Esq., Secretary to the Government of India, Foreign Department, to C. J. Wingfield, Esq., Chief Commissioner of Oudh,—(No. 6268, dated 10th October 1859.)

No. 1091, dated the 4th June.
No. 1377, dated the 15th July.

I am directed by the Governor-General in Council to acknowledge the receipt of your Secretary's letters noted in the margin, relative to the Taluqdárí settlement of Oudh.

2. His Excellency in Council, agreeing with you as to the expediency of removing all doubts as to the intention of the Government to maintain the Taluqdárs in possession of the taluqas for which they have been permitted to engage, is pleased to declare that every Taluqdár with whom a summary settlement has been made since the re-occupation of the province, has thereby acquired a permanent hereditary and transferable proprietary right, *viz.*, in the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa.

3. This right is, however, conceded, subject to any measure which the Government may think proper to take for the purpose of protecting the inferior Zamíndárs and village occupants from extortion, and upholding their rights in the soil in subordination to the Taluqdárs.

4. The Governor-General in Council desires that you willh ave ready, by His Excell ency's arrival at Lucknow, a list of the Taluqdárs upon whom a permanent proprietary right has now been conferred; and that you will prepare sanads to be issued to these Taluqdárs at that time. The sanads will be given by, and will run in the name of, the Chief Commissioner, acting under the authority of the Governor-General.

5. I am directed to add that, as regards Zamíndárs and others, not being Taluqdárs, with whom a summary settlement has been made, the orders conveyed in the limitation Circular No. 31 of the 28th of January 1859, must not be strictly

observed. Opportunity must be allowed at the next settlement to all disappointed claimants to bring forward their claims, and all such claims must be heard and disposed of in the usual manner.

II.

From C. BEADON, ESQ., Secretary to the Government of India, Foreign Department, with the Governor-General, to Chief Commissioner, Oudh,—(No. 23, dated 19th October 1859.)

I am directed by His Excellency the Governor-General to acknowledge the reciept of your demi-official letter of the 15th instant, enclosing a form of sanad to be given to the Taluqdárs of Oudh, granting them a full and permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adoption and for careful translation into the Hindústáni language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the Taluqdárs and on their heirs for ever the full proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyalty and good service, on the other hand, all persons holding an interest in the land under the Taluqdárs will be secured in the possession of the subordinate rights which they have heretofore enjoyed.

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that Zamíndárs or other persons have held an interest in the soil intermediate between the ryot and the Taluqdár, the amount or proportion payable by the intermediate holder to the Taluqdár, and the net jama finally payable by the Taluqdár to the Government, will be fixed and recorded after careful and detailed survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the Taluqdár being, of course, free to improve his income and the value of his property by the reclamation of waste lands (unless in cases where usage has given the liberty of reclamation to the Zamíndár), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (pattás) are given to the subordinate Zamíndárs, they will be given by the Taluqdár, not by the Government.

5. This being the position in which the Taluqdárs will be placed, they cannot, with any show of reason, complain if the Government takes effectual steps to reestablish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is in many cases more intimate and more ancient than theirs; and it is obvious that the only effectual protection which the Government can extend to these inferior holders, is to define and record their rights and to limit the demand of the Taluqdár as against such person during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue demand.

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to Zamíndárs and Taluqdárs, are questions to be determined at time of settlement.

The Governor-General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land revenue than if there were only one such class. But whilst the taluqdárí tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh, the zamíndárí tenure intermediate between the tenures of the Taluqdár and the ryot is not a new creation, and it is a tenure which, in the opinion of the Governor-General, must be protected.

SECOND SCHEDULE.

(See section 4.)

(1.)—Dig-Bijay Singh, Rájá of Bahámpúr.
(2.)—Rao Hardeo Bakhsh Singh, of Katíari.
(3.)—Káshí Parshád, Taluqdár of Sisséndí.
(4.)—Jhabba Singh, Zamíndár of Gopál Khéra.
(5.)—Chandan Lál, Zamíndár of Moraon (Baiswára).

ACT No. II of 1869.

(Received the assent of the Governor-General on the 12th February 1869.)

An Act for the appointment of Justices of the Peace.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the appointment of Justices of the Peace; It is hereby enacted as follows :—

Short title.

I. This Act may be called "The Justices of the Peace Act, 1869."

II. *Repealed by Act XIV of* 1870.

Appointment of Justices of the Peace for the Mofussil.

III. The Governor-General of India in Council, so far as regards the whole or any part of British India (other than the towns of Calcutta, Madras and Bombay),

and every Local Government, so far as regards the territories subject to its Government or administration (other than the towns aforesaid),

may, by notification in the official *Gazette*, appoint such and so many of the Covenanted Civil Servants of the Crown in India, or other British inhabitants, as the said Governor-General in Council or the Local Government (as the case may be) shall think properly qualified to act as Justices of the Peace within and for the territories mentioned in such notification.

Appointment of Justices of the Peace for the presidency towns.

IV. The Governor-General of India in Council or the Local Government, so far as regards the town of Calcutta,

and the Local Government, so far as regards the towns of Madras and Bombay,

may, by notification in the official *Gazette*, appoint any persons resident within British India and not being the subjects of any foreign State whom such Governor-General in Council or Local Government (as the case may be) shall think properly qualified to act as Justices of the Peace within the limits of the town mentioned in such notification.

Powers and duties of Justices of the Peace.

V. All persons appointed under section three or section four shall be Justices of the Peace and shall have authority to act as such, and shall have power to commit for trial European British subjects of Her Majesty to the Court prescribed in that behalf by the law in force for the time being, and shall do all other acts appertaining to the office of Justice of the Peace which under or by virtue of any law in force for the time being may be done by a Justice of the Peace within the said territories or towns, as the case may be.

Powers of Justices the Peace in Native States.

VI. All persons being servants of Government appointed by the Governor-General in Council to act as Justices of the Peace for the whole of British India,

and all persons being servants of Government appointed by a Local Government to act as Justices of the Peace for the territories subject to such Government other than the towns aforesaid,

shall, so far as regards European British and Christian subjects of Her Majesty, within the dominions of Princes and States in India in alliance with Her Majesty, have power to act as Justices of the Peace and to commit such subjects for trial according to law.

Declarations to be taken by Justices of the Peace.

VII. Provided that no person other than a person now acting as a Justice of the Peace under a commission shall be capable of acting as a Justice of the Peace until he shall have made and subscribed, before some other Justice of the Peace or the chief civil officer of any station within the territories or place in and for which he shall have been appointed, declarations to the following effect :—

"I declare that I will be faithful and bear true allegiance to Her Majesty."

"I declare that I will truly and faithfully discharge the office of a Justice of the Peace."

Subscriptions to declarations to be kept.

VIII. The subscriptions of such persons to the said declarations shall be deposited with and kept by such officer as the Governor-General in Council or the Local Government (as the case may be) shall from time to time appoint.

Power to suspend or dismiss.

IX. The Governor-General of India in Council in the case of any Justice of the Peace appointed by him, and the Local Government in the case of any Justice of the Peace appointed by it, may suspend or dismiss any person so appointed.

Present Justices of the Peace to be deemed to be appointed under this Act.

X. Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns under any commission issued by any of the said High Courts, shall be deemed to have been appointed under section three by the said Governor-General in Council to act as a Justice of the Peace for the whole of British India.

Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section four by the Local Government.

SCHEDULE.

Repealed by Act XIV of 1870.

ACT No. III OF 1869.

(Received the assent of the Governor-General on the 19*th February* 1869.*)*

An Act for the maintenance of the Rural Police in the North-Western Provinces.

WHEREAS it is expedient to make further provision for the maintenance of the Rural Police in the North-Western Provinces of the presidency of Fort William and to define the law relating to the appointment and duties of village watchmen in those provinces; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

I. This Act may be called "The Rural Police (North-Western Provinces) Act." Short title.

II. *Repealed by Act XIV of* 1870.

III. This Act extends to every District in which Act No. II of 1865 was in force immediately before the passing hereof. Extent of Act.

CHAPTER II.

TAXES.

IV. Three kinds of taxes shall be leviable under this Act (that is to say), 1°, a House Tax; 2°, an Estate Tax; and 3°, a Tax on Muáfidárs, Sub-proprietors and Nazránádárs. Taxes leviable under this Act.

1.°—*The house tax.*

V. The proprietor of every Muáfí, Nazráná or other estate situate in any District to which this Act applies shall have power to assess and collect in each year from the occupant of every house on such estate, a sum not exceeding one rupee. Power to assess house-tax.

The Collector of the District shall have power to determine what shall, for the purposes of this section, be held to be a house.

VI. All sums assessed under section five shall be payable in advance for the revenue year next after the assessment, at the time when the first instalment of rents is ordinarily payable in that year for lands comprised in or adjacent to such estate. Time of paying house-tax.

VII. All sums so assessed shall be recoverable as if they were rent of land. Recovery of house-tax.

Provided that no person shall be liable to be ejected from any house in his occupation for non-payment of any such sum.

VIII. Any person assessed under section five, and unable to pay the amount of the assessment, may present a petition on unstamped paper to the Collector of the District, and such Collector may, if he thinks fit, remit wholly or in part the said assessment. Petition against assessment.

All complaints of illegal collection under section five shall be cognizable by the Collectors of Land Revenue; and the provisions contained in Act No. X of 1859 *(to amend the Law relating to the recovery of rent in the presidency of Bengal)*, section twenty-three, as to institution, trial and appeal, shall apply to complaints under this section. Complaints of illegal collection.

2.°—*The estate tax.*

IX. If, in any year, any such proprietor fails altogether to assess the sum mentioned in section five, or assesses under section five a sum which, in the opinion of the Collector of the District wherein the proprietor's estate is situate, is inadequate, it shall be lawful for such Collector to assess upon such estate a sum payable yearly by the proprietor thereof for the time being, and not exceeding in any Power to Collector to assess estate of proprietor failing to make sufficient assessment.

year the amount which might have been assessed in the same year under the same section on the occupants of the houses in such estate, less ten per centum.

Power to assess estates.

X. It shall be lawful for the Collector, or for any officer making a settlement of land-revenue, to assess upon any Muáfí, Nazráná, or other estate situate in any District to which this Act applies, a sum to be paid yearly by the proprietor thereof for the time being not exceeding the aggregate amount of the sums payable in respect of such estate or by the occupants of the houses thereon under sections five and nine, less ten per centum.

Such assessment shall be in addition to the municipal cess or percentage (if any) levied for the maintenance of rural police on the land-revenue payable in respect of such estate.

Alteration of assessment.

XI. The sum assessable under section ten may from time to time, with the sanction of the Local Government, be altered by the Collector or officer aforesaid.

3°.—*The Tax on Muáfidárs, Sub-proprietors, and Nazránádárs.*

Power to levy cess on Muáfídárs, Sub-proprietors and Nazránádárs.

XII. Besides the assessments made under section ten, it shall be lawful for the Collector or for any such officer as aforesaid, to levy in the case of any Muáfí or Nazráná estate upon the Muáfídárs, or (where a sub-settlement has been made on the Sub-proprietors, or on the Nazránádárs, a municipal cess on the estimated jama at the same rate as the estate would have been charged with, had it not been held under a Muáfí or Nazráná title.

Mode and time of paying assessments.

XIII. The Local Government may from time to time prescribe, by notification in the official *Gazette*, by what instalments and at what times the assessments payable under sections ten and twelve shall be paid, and all sums assessed under either of those sections shall be recoverable as if they were arrears of revenue.

CHAPTER III.

Application of taxes.

Application of taxes levied under this Act.

XIV. Subject to the orders of the Local Government, all taxes levied under this Act in any District shall, in the first instance, be applied to the maintenance of the village police in such District, and for the purpose of this section, 'maintenance' shall be deemed to include their wages, the price of all necessaries and accoutrements supplied to them, rewards and other incidental expenses.

The surplus (if any) may be applied by the Local Government, at its discretion, to the sanitary improvement of the District, or to any other useful purpose therein.

CHAPTER IV.

Accounts of taxes.

Accounts to be kept.

XV. Accounts of the taxes levied under this Act and of the application thereof shall be kept by such persons and in such form, and shall be furnished at such times and to such officers as the Local Government shall, by rules to be published in the official *Gazette*, from time to time, prescribe.

Accounts to be open to public.

XVI. Such accounts shall be open to public inspection at all reasonable times without the payment of any fee.

Failure to keep or furnish accounts.

XVII. Any proprietor failing to comply with any rule made under section fifteen, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees, and every such fine shall when recovered be applied for the purposes of this Act in the District where it is imposed.

CHAPTER V.

Village watchmen.

Nomination of village watchmen.

XVIII. Every person authorized to nominate a person to the office of village watchmen shall, within fifteen days after the occurrence of a vacancy in the office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the District.

Appointment or rejection of nominee.

The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected by such Magistrate at his discretion, or by some officer authorized by him in that behalf.

Failure to appoint.

XIX. In default of such nomination within the said fifteen days, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate a person to the office of village watchman shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such

nomination has been made but the nominee is rejected, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

Duties of village watchmen.

XX. Any village watchman appointed under this Act shall be liable to perform within the limits of his village, and in addition to his other duties, all or any of the duties imposed on Police Officers by Act No. V of 1861 *(for the regulation of Police)*; and for any neglect or disobedience in his official capacity, he shall be liable to the penalties which he would have incurred had he been a Police officer subject to the provisions of that Act and guilty of neglect or disobedience as the case might be.

CHAPTER VI.

MISCELLANEOUS.

Power to make rules.

XXI. The Local Government may, from time to time, make rules, consistent with this Act, for the guidance of officers in all matters connected with its enforcement.

All such rules shall be published in the local official *Gazette*.

Power to extend Act.

XXII. The Lieutenant-Governor of the North-Western Provinces and the Lieutenant-Governor of the Panjáb may respectively, by notification in the local *Gazette*, extend this Act to any part of the territories for the time being under their respective governments; and the Governor-General of India in Council may, by notification in the *Gazette of India*, extend this Act to any province for the time being under the immediate administration of the Government of India:

Provided that this Act shall have no operation in any village to which Act No. XX of 1856 *(to make better provision for the appointment and maintenance of Police Chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal)*, or Act No. VI of 1868 *(to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes)*, or any other special municipal law shall have been extended, so long as such Act or law continues in force in such village.

Repeal of inconsistent rules.

XXIII. From the date of any such extension of this Act, so much of any rule having the force of law in operation in the territories to which the extension is made as is inconsistent with any provision of this Act, shall cease to have effect therein.

THE INDIAN DIVORCE ACT, 1869.

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12. Petition for alimony pending the suit.
13. Statement in answer to No. 12.
14. Form of undertaking by minor's next friend to be answerable for respondent's costs.

ACT No. IV OF 1869.

(Received the assent of the Governor-General on the 26th February 1869).

An Act to amend the law relating to Divorce and Matrimonial Causes in India.

Preamble.

WHEREAS it is expedient to amend the law relating to the divorce of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. Commencement of Act.

I. This Act may be called "The Indian Divorce Act," and shall come into operation on the first day of April 1869.

Extent of Act.

II. This Act shall extend to the whole of British India, and (so far as regards British subjects within the dominions hereinafter mentioned) to the dominions of Princes and States in India in alliance with Her Majesty.

Extent of power to grant relief generally,

Nothing hereinafter contained shall authorize any Court to grant any relief under this Act, except in cases where the petitioner professes the Christian religion and resides in India at the time of presenting the petition;

and to make decrees of dissolution,

or to make decrees of dissolution of marriage except in the following cases,—(*a*) where the marriage shall have been solemnized in India; or (*b*) where the adultery, rape or unnatural crime complained of shall have been committed in India; or (*c*) where the husband has, since the solemnization of the marriage, exchanged his profession of Christianity for the profession of some other form of religion;

or of nullity.

or to make decrees of nullity of marriage except in cases where the marriage has been solemnized in India.

Interpretation-clause.

III. In this Act, unless there be something repugnant in the subject or context,—

(1). "High Court" means in any Regulation Province the Court there established under the Act of the twenty-fourth and twenty-fifth of Victoria, Chapter one hundred and four, "High Court."

in the territories for the time being subject to the Government of the Lieutenant-Governor of the Panjáb, the Chief Court of the Panjáb,

in British Burmah, the High Court of Judicature at Fort William in Bengal,

and in any other Non-Regulation Province and in any place in the dominions of the Princes and States of India in alliance with Her Majesty, the High Court or Chief Court to whose original criminal jurisdiction the petitioner is for the time being subject, or would be subject if he or she were an European British subject of Her Majesty:

In the case of any petition under this Act, 'High Court' is that one of the aforesaid Courts within the local limits of whose ordinary appellate jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together:

(2). "District Judge" means, in the Regulation Provinces, a Judge of a principal Civil Court of original jurisdiction, "District Judge."

in the Non-Regulation Provinces, other than British Burma and Sind, a Commissioner of a Division,

in Pegu, the Recorder at Rangoon,

in Arakan, the Recorder at Rangoon until a Recorder's Court is established at Akyab, and thenceforward the Recorder at Akyab,

in the Tenasserim Provinces, the Recorder at Maulmain,

in Sind, the Judicial Commissioner in that province,

and in any place in the dominions of the Princes and States aforesaid, such officer as the Governor-General of India in Council shall from time to time appoint in this behalf by notification in the *Gazette of India*, and, in the absence of such officer, the High Court in the exercise of its original jurisdiction under this Act:

(3). "District Court" means, in the case of any petition under this Act, the Court of the District Judge within the local limits of whose ordinary jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together: "District Court."

(4). "Court" means the High Court or the District Court, as the case may be: "Court."

(5). "Minor children" means, in the case of sons of Native fathers, boys who have not completed the age of sixteen years, and, in the case of daughters of Native fathers, girls who have not completed the age of thirteen years: In other cases it means unmarried children who have not completed the age of eighteen years: "Minor children."

(6). "Incestuous adultery" means adultery committed by a husband with a woman with whom, if his wife were dead, he could not lawfully contract marriage by reason of her being within the prohibited degrees of consanguinity (whether natural or legal) or affinity: "Incestuous adultery."

(7). "Bigamy with adultery" means adultery with the same woman with whom the bigamy was committed: "Bigamy with adultery."

(8). "Marriage with another woman" means marriage of any person, being married, to any other person, during the life of the former wife, whether the second marriage shall have taken place within the dominions of Her Majesty or elsewhere: "Marriage with another woman."

(9). "Desertion" implies an abandonment against the wish of the person charging it; and "Desertion."

(10). "Property" includes in the case of a wife any property to which she is entitled for an estate in remainder or reversion or as a trustee, executrix ar administratrix; and the date of the death of the testator or intestate shall be deemed to be the date at which any such wife becomes entitled as executrix or administratrix. "Property."

CHAPTER II.

JURISDICTION.

Matrimonial jurisdiction of High Courts to be exercised subject to this Act: exception.

IV. The jurisdiction now exercised by the High Courts in respect of divorce *a mensâ et toro*, and in all other causes, suits and matters matrimonial, shall be exercised by such Courts and by the District Courts subject to the provisions in this Act contained, and not otherwise: except so far as relates to the granting of marriage-licences, which may be granted as if this Act had not been passed.

Enforcement of decrees or orders made heretofore by any Supreme or High Court.

V. Any decree or order of the late Supreme Court of Judicature at Calcutta, Madras or Bombay sitting on the ecclesiastical side, or of any of the said High Courts sitting in the exercise of their matrimonial jurisdiction, respectively, in any cause or matter matrimonial, may be enforced and dealt with by the said High Courts, respectively, as hereinafter mentioned, in like manner as if such decree or order had been originally made under this Act by the Court so enforcing or dealing with the same.

Pending suits.

VI. All suits and proceedings in causes and matters matrimonial, which when this Act comes into operation are pending in any High Court, shall be dealt with and decided by such Court, so far as may be, as if they had been originally instituted therein under this Act.

Courts to act on principles of English Divorce Court.

VII. Subject to the provisions contained in this Act, the High Courts and District Courts shall, in all suits and proceedings hereunder, act and give relief on principles and rules which, in the opinion of the said Courts, are as nearly as may be conformable to the principles and rules on which the Court for Divorce and Matrimonial Causes in England for the time being acts and gives relief.

Extraordinary jurisdiction of High Court.

VIII. The High Court may, whenever it thinks fit, remove and try and determine as a Court of original jurisdiction any suit or proceeding instituted under this Act in the Court of any District Judge within the limits of its jurisdiction under this Act.

Power to transfer suits.

The High Court may also withdraw any such suit or proceeding, and transfer it for trial or disposal to the Court of any other such District Judge.

Reference to High Courts.

IX. When any question of law or usage having the force of law arises at any point in the proceedings previous to the hearing of any suit under this Act by a District Court or at any subsequent stage of such suit, or in the execution of the decree therein or order thereon,

the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case and refer it, with the Court's own opinion thereon, to the decision of the High Court.

If the question has arisen previous to or in the hearing, the District Court may either stay such proceedings, or proceed in the case pending such reference, and pass a decree contingent upon the opinion of the High Court upon it.

If a decree or order has been made, its execution shall be stayed until the receipt of the order of the High Court upon such reference.

CHAPTER III.

Dissolution of marriage.

When husband may petition for dissolution.

X. Any husband may present a petition to the District Court or to the High Court, praying that his marriage may be dissolved on the ground that his wife has, since the solemnization thereof, been guilty of adultery.

When wife may petition for a dissolution.

Any wife may present a petiton to the District Court or to the High Court praying that her marriage may be dissolved on the ground that, since the solemnization thereof, her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman ;

or has been guilty of incestuous adultery,

or of bigamy with adultery,

or of marriage with another woman with adultery,

or of rape, sodomy or bestiality,

or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce *a mensâ et toro*,

or of adultery coupled with desertion, without reasonable excuse, for two years or upwards.

Contents of petition.

Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded.

Adulterer to be a co-respondent.

XI. Upon any such petition presented by a husband, the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless he is excused from so doing on one of the following grounds, to be allowed by the Court :—

(1).—That the respondent is leading the life of a prostitute and that the petitioner knows of no person with whom the adultery has been committed.

(2).—That the name of the alleged adulterer is unknown to the petitioner, although he has made due efforts to discover it.

(3).—That the alleged adulterer is dead.

Court to be satisfied of absence of collusion.

XII. Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery, or has condoned the same, and shall also inquire into any countercharge which may be made against the petitioner.

Dismissal of petition.

XIII. In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioner's case has not been proved, or is not satisfied that the alleged adultery has been committed,

or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of

the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

then and in any of the said cases the Court shall dismiss the petition.

When a petition is dismissed by a District Court under this section, the petitioner may, nevertheless, present a similar petition to the High Court.

Power to Court to pronounce decree for dissolving marriage.

XIV. In case the Court is satisfied on the evidence that the case of the petitioner has been proved,

and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

the Court shall pronounce a decree declaring such marriage to be dissolved in the manner and subject to all the provisions and limitations in sections sixteen and seventeen made and declared :

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery,

or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in presenting or prosecuting such petition,

or of cruelty towards the other party to the marriage,

or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse,

or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

Condonation.

No adultery shall be deemed to have been condoned within the meaning of this Act unless where conjugal cohabitation has been resumed or continued.

Relief in case of opposition on certain grounds.

XV. In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty, or desertion without reasonable excuse, or, in case of such a suit instituted by a wife, on the ground of her adultery and cruelty, the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to such cruelty or desertion.

Decrees for dissolution to be *nisi*.

XVI. Every decree for a dissolution of marriage made by a High Court not being a confirmation of a decree of a District Court, shall, in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court, by general or special order from time to time, directs.

Collusion.

During that period any person shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court.

On cause being so shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may demand.

The High Court may order the costs of Counsel and witnesses and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree *nisi* has been made, and the petitioner fails, within a reasonable time, to move to have such decree made absolute, the High Court may dismiss the suit.

Confirmation of decree for dissolution by District Judge.

XVII. Every decree for a dissolution of marriage made by a District Judge shall be subject to confirmation by the High Court.

Cases for confirmation of a decree for dissolution of marriage shall be heard (where the number of the Judges of the High Court is three or upwards) by a Court composed of three such Judges, and in case of difference the opinion of the majority shall prevail, or (where the number of the Judges of the High Court is two) by a Court composed of such two Judges, and in case of difference the opinion of the Senior Judge shall prevail.

The High Court, if it think further enquiry or additional evidence to be necessary, may direct such enquiry to be made, or such evidence to be taken.

The result of such enquiry and the additional evidence shall be certified to the High Court by the District Judge, and the High Court shall thereupon make an order confirming the decree for dissolution of marriage, or such other order as to the Court seems fit.

Provided that no decree shall be confirmed under this section till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During the progress of the suit in the Court of the District Judge, any person suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section eight, and the High Court shall thereupon, if it think fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in section sixteen shall apply to every suit so removed: or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary to enable him to make a decree in accordance with the justice of the case.

CHAPTER IV.

NULLITY OF MARRIAGE.

Petition for decree of nullity.

XVIII. Any husband or wife may present a petition to the District Court or to the High Court, praying that his or her marriage may be declared null and void.

Grounds of decree.

XIX. Such decree may be made on any of the following grounds :—

(1.)—That the respondent was impotent at the time of the marriage and at the time of the institution of the suit;

(2.)—That the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity;

(3.)—That either party was a lunatic or idiot at the time of the marriage;

(4.)—That the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force.

Nothing in this section shall affect the jurisdiction of the High Court to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force or fraud.

Confirmation of District Judge's decree.

XX. Every decree of nullity of marriage made by a District Judge shall be subject to confirmation by the High Court, and the provisions of section seventeen, clauses one, two, three and four, shall *mutatis mutandis* apply to such decrees.

Children of annulled marriage.

XXI. Where a marriage is annulled on the ground that a former husband or wife was living, and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed, in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract.

CHAPTER V.

JUDICIAL SEPARATION.

No decree for divorce *a mensâ et toro* to be made.

XXII. No decree shall hereafter be made for a divorce *a mensâ et toro* two

Decree of judicial separation obtainable by husband or wife.

the husband or wife may obtain a decree of judicial separation, on the grou nits, adultery, or cruelty, or desertion without reasonable excuse for two yea upwards, and such decree shall have the effect of a divorce *a mensâ et toro* und make existing law, and such other legal effect as hereinafter mentioned. cused

Application for separation made by petition.

XXIII. Application for judicial separation on any one of the grou e peti- said, may be made by either husband or wife by petition to the District Co the High Court; and the Court, on being satisfied of the truth of the stat tioner made in such petition, and that there is no legal ground why the application not be granted, may decree judicial separation accordingly.

Separated wife to be deemed a spinster with respect to after-acquired property.

XXIV. In every case of a judicial separation under this Act, the wife from the date of the sentence, and whilst the separation continues, be consid nt as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her.

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, go as the same would have gone if her husband had been then dead:

Provided that, if any such wife again cohabits with her husband, all such property as she may be entitled to when such cohabitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

XXV. In every case of a judicial separation under this Act, the wife shall, whilst so separated, be considered as an unmarried woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any contract, act or costs entered into, done, omitted or incurred by her during the separation:

Separated wife to be deemed a spinster for purposes of contract and suing.

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use.

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

Reversal of decree of separation.

XXVI. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may, at any time thereafter, present a petition to the Court by which the decree was pronounced, praying for a reversal of such decree, on the ground that it was obtained in his or her absence, and that there was reasonable excuse for the alleged desertion, where desertion was the ground of such decree.

Decree of separation obtained during the absence of husband or wife may be reversed.

The Court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly; but such reversal shall not prejudice or affect the rights or remedies which any other person would have had, in case it had not been decreed, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the sentence of separation and of the reversal thereof.

CHAPTER VI.

PROTECTION ORDERS.

XXVII. Any wife to whom the fourth section of the Indian Succession Act, 1865, does not apply, may, when deserted by her husband, present a petition to the District Court or the High Court, at any time after such desertion, for an order to protect any property which she may have acquired or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

Deserted wife may apply to the Court for protection.

XXVIII. The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

Court may grant protection-order.

XXIX. The husband or any creditor of, or person claiming under, him may apply to the Court by which such order was made for the discharge or variation [illegible]reof, and the Court, if the desertion has ceased, or if for any other reason it deci[illegible]k fit so to do, may discharge or vary the order accordingly.

Discharge or variation of orders.

XXX. If the husband or any creditor of, or person claiming under, the hus[illegible] seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum [illegible] double its value.

Liability of husband seizing his wife's property after notice of order.

XXXI. So long as any such order of protection remains in force, the wife [illegible] and be deemed to have been, during such desertion of her, in the like [illegible] in all respects, with regard to property and contracts and suing and being [illegible] she would be under this Act if she obtained a decree of judicial separation.

Wife's legal position during continuance of order.

CHAPTER VII.

RESTITUTION OF CONJUGAL RIGHTS.

XXXII. When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, either wife or husband may apply, by petition to the District Court or the High Court, for restitution of conjugal rights, and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

Petition for restitution of conjugal rights.

XXXIII. Nothing shall be pleaded in answer to a petition for restitution of conjugal rights, which would not be ground for a suit for judicial separation or for a decree of nullity of marriage.

Answer to petition.

CHAPTER VIII.

DAMAGES AND COSTS.

Husband may claim damages from adulterer.

XXXIV. Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition to the District Court or the High Court limited to such object only, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner.

Such petition shall be served on the alleged adulterer and the wife, unless the Court dispenses with such service, or directs some other service to be substituted.

The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondents or either of them may not appear.

After the decision has been given, the Court may direct in what manner such damages shall be paid or applied.

Power to order adulterer to pay costs.

XXXV. Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent, and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings :

Provided that the co-respondent shall not be ordered to pay the petitioner's costs

(1) if the respondent was at the time of the adultery living apart from her husband and leading the life of a prostitute, or

(2) if the co-respondent had not at the time of the adultery reason to believe the respondent to be a married woman.

Power to order litigious intervenor to pay costs.

Whenever any application is made under section seventeen, the Court, if it thinks that the applicant had no grounds or no sufficient grounds for intervening, may order him to pay the whole or any part of the costs occasioned by the application.

CHAPTER IX.

ALIMONY.

Alimony *pendente lite.*

XXXVI. In any suit under this Act, whether it be instituted by a husband or a wife, and whether or not she has obtained an order of protection, the wife may present a petition for alimony pending the suit.

Such petition shall be served on the husband ; and the Court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the suit as it may deem just :

Provided that alimony pending the suit shall in no case exceed one-fifth of the husband's average nett income for the three years next preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

Power to order permanent alimony.

XXXVII. The High Court may, if it think fit, on any decree absolute declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

and the District Judge may, if he thinks fit, on the confirmation of any decree of his declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable ; and for that purpose may cause a proper instrument to be executed by all necessary parties.

Power to order monthly or weekly payments.

In every such case the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable :

Provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order wholly or in part, as to the Court seems fit.

Court may direct payment of alimony to wife or to her trustee.

XXXVIII. In all cases in which the Court makes any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do.

CHAPTER X.

SETTLEMENTS

XXXIX. Whenever the Court pronounces a decree of dissolution of marriage or judicial separation for adultery of the wife, if it is made to appear to the Court that the wife is entitled to any property, the Court may, if it think fit, order such settlement as it thinks reasonable to be made of such property or any part thereof, for the benefit of the husband, or of the children of the marriage, or of both.

Power to order settlement of wife's property for benefit of husband and children.

Any instrument executed pursuant to any order of the Court at the time of or after the pronouncing of a decree of dissolution of marriage or judicial separation, shall be deemed valid notwithstanding the existence of the disability of coverture at the time of the execution thereof.

The Court may direct that the whole or any part of the damages recovered under section thirty-four shall be settled for the benefit of the children of the marriage, or as a provision for the maintenance of the wife.

Settlement of damages.

XL. The High Court, after a decree absolute for dissolution of marriage, or a decree of nullity of marriage,

and the District Court, after its decree for dissolution of marriage or of nullity of marriage has been confirmed,

may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the Court seems fit:

Enquiry into existence of ante-nuptial or post-nuptial settlements.

Provided that the Court shall not make any order for the benefit of the parents or either of them at the expense of the children.

CHAPTER XI.

CUSTODY OF CHILDREN.

XLI. In any suit for obtaining a judicial separation the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of such suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the said Court.

Power to make orders as to custody of children in suit for separation.

XLII. The Court, after a decree of judicial separation, may upon application (by petition) for this purpose make, from time to time, all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree or by interim orders in case the proceedings for obtaining such decree were still pending.

Power to make such orders after decree.

XLIII. In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in, or removed to, a High Court, the Court may from time to time, before making its decree absolute or its decree (as the case may be), make such interim orders, and may make such provision in the decree absolute or decree,

Power to make orders as to custody of children in suits for dissolution or nullity.

and in any such suit instituted in a District Court, the Court may from time to time, before its decree is confirmed, make such interim orders, and may make such provision on such confirmation,

as the High Court or District Court (as the case may be) deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit;

and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the Court.

XLIV. The High Court after a decree absolute for dissolution of marriage or a decree of nullity of marriage,

Power to make such orders after decree or confirmation.

and the District Court after a decree for dissolution of marriage or of nullity of marriage has been confirmed,

may, upon application by petition for the purpose, make from time to time all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the said Court, as might have

been made by such decree absolute or decree (as the case may be), or by such interim order as aforesaid.

CHAPTER XII.

PROCEDURE.

Code of Civil Procedure to apply.

XLV. Subject to the provisions herein contained, all proceedings under this Act between party and party shall be regulated by the Code of Civil Procedure.

Forms of petitions and statements.

XLVI. The forms set forth in the schedule to this Act, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

Stamp on petition.

XLVII. Every petition under this Act for a decree of dissolution of marriage, or of nullity of marriage, or of judicial separation, * * * * * * * * * and shall * * * * * * * * * * state that there is not any collusion or connivance between the petitioner and the other party to the marriage.

Petition to state absence of collusion.

Statements to be verified.

The statements contained in every petition under this Act shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

Suits on behalf of lunatics.

XLVIII. When the husband or wife is a lunatic or idiot, any suit under this Act (other than a suit for restitution of conjugal rights) may be brought on his or her behalf by the committee or other person entitled to his or her custody.

Suits by minors.

XLIX. Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court; and no petition presented by a minor under this Act shall be filed until the next friend has undertaken in writing to be answerable for costs.

Such undertaking * * * shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.†

Service of petition.

L. Every petition under this Act shall be served on the party to be affected thereby, either within or without British India, in such manner as the High Court by general or special order from time to time directs:

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

Mode of taking evidence.

LI. The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined, and may be cross-examined and re-examined, like any other witness:

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross-examined by or on behalf of the opposite party orally, and after such cross-examination may be re-examined, orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

Competence of husband and wife to give evidence as to cruelty or desertion.

LII. On any petition presented by a wife, praying that her marriage r be dissolved by reason of her husband having been guilty of adultery couple cruelty, or of adultery coupled with desertion without reasonable excuse, t and wife respectively shall be competent and compellable to give ev relating to such cruelty or desertion.

Power to close doors.

LIII. The whole or any part of any proceeding under this Act ma if the Court thinks fit, with closed doors.

Power to adjourn.

LIV. The Court may from time to time adjourn the hearing of an under this Act, and may require further evidence thereof if it sees fit so t

Enforcement of and appeals from orders and decrees.

LV. All decrees and orders made by the Court in any suit or proceedi this Act shall be enforced and may be appealed from, in the like manner as t and orders of the Court made in the exercise of its original civil jurisdic enforced and may be appealed from, under the laws, rules and orders for t being in force:

Provided that there shall be no appeal from a decree of a District Judge for d solution of marriage or of nullity of marriage: nor from the order of the High Court confirming or refusing to confirm such decree:

No appeal as to costs.

Provided also that there shall be no appeal on the subject of costs only.

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* The words omitted from this section have been repealed by Act VII of 1870.

† Ditto ditto ditto.

LVI. Any person may appeal to Her Majesty in Council from any decree (other than a decree *nisi*) or order under this Act of a High Court made on appeal or otherwise,

and from any decree (other than a decree *nisi*) or order made in the exercise of original jurisdiction by the Judges of a High Court or of any Division Court from which an appeal shall not lie to the High Court,

when the High Court declares that the case is a fit one for appeal to Her Majesty in Council.

Appeal to Queen in Council.

CHAPTER XII.

REMARRIAGE.

LVII. When six months after the date of an order of a High Court confirming the decree for a dissolution of marriage made by a District Judge have expired;

or when six months after the date of any decree of a High Court dissolving a marriage have expired, and no appeal has been presented against such decree to the High Court in its appellate jurisdiction,

or when any such appeal has been dismissed,

or when in the result of any such appeal any marriage is declared to be dissolved,

but not sooner, it shall be lawful for the respective parties to the marriage to marry again, as if the prior marriage had been dissolved by death :

Provided that no appeal to Her Majesty in Council has been presented against any such order or decree.

When such appeal has been dismissed, or when in the result thereof the marriage is declared to be dissolved, but not sooner, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved, by death.

Liberty to parties to marry again.

LVIII. No clergyman in Holy Orders of the United Church of England and Ireland shall be compelled solemnize to the marriage of any person whose former marriage has been dissolved on the ground of his or her adultery, or shall be liable to any suit, penalty or censure for solemnizing or refusing to solemnize the marriage of any such person.

English clergyman not compelled to solemnize marriages of persons divorced for adultery.

LIX. When any Minister of any Church or Chapel of the said United Church refuses to perform such marriage-service between any persons who but for such refusal would be entitled to have the same service performed in such Church or Chapel, such minister shall permit any other Minister in Holy Orders of the said Church, entitled to officiate within the diocese in which such Church or Chapel is situate, to perform such marriage-service in such Church or Chapel.

English Minister refusing to perform ceremony to permit use of his church.

CHAPTER XIV.

MISCELLANEOUS.

LX. Every decree for judicial separation or order to protect property, obtained by a wife under this Act shall, until reversed or discharged, be deemed valid, so far as necessary for the protection of any person dealing with the wife.

No reversal, discharge or variation of such decree or order shall affect any nullity or remedies which any person would otherwise have had in respect of any from time to acts of the wife entered into or done between the dates of such decree be), make and of the reversal, discharge or variation thereof.

or decree, persons who in reliance on any such decree or order make any payment to,

and in any transfer or act to be made or done by, the wife who has obtained the to time, b notwithstanding such decree or order may then have been reversed, such provi or varied, or the separation of the wife from her husband may have

as th at some time since the making of the decree or order been discontinued, respect ted and indemnified as if, at the time of such payment, transfer or other marriag decree or order were valid and still subsisting without variation, and the

and n has not ceased or been discontinued.

under ness, at the time of the payment, transfer or other act, such persons had

X of the reversal, discharge or variation of the decree or order or of the cessation or discontinuance of the separation.

Decree for separation or protection-order to be valid as to persons dealing with wife before reversal.

Indemnity of persons making payment of wife without notice of reversal of decree or protection-order.

LXI. After this Act comes into operation, no person competent to present a petition under sections two and ten shall maintain a suit for criminal conversation with his wife.

Bar of suit for criminal conversation.

LXII. The High Court shall make such rules under this Act as it may from time to time consider expedient, and may from time to time alter and add to the same ;

Power to make rules.

Provided that such rules, alterations and additions are consistent with the provisions of this Act and the Code of Civil Procedure.

All such rules, alterations and additions shall be published in the local official *Gazette*.

SCHEDULE OF FORMS.

No. 1.—PETITION *by husband for a dissolution of marriage with damages against co-respondent, by reason of adultery.*

(See sections 10 *and* 34*).*

In the (High) Court of
To the Hon'ble Mr. Justice [*or* To the Judge of]
The day of 18 .
The petition of *A. B.* of

SHEWETH,

1. That your petitioner was on the day of , one thousand eight hundred and , lawfully married to *C. B.*, then *C. D.*, spinster at . (*a*)

2. That from his said marriage, your petitioner lived and cohabited with his said wife at and at , in , and lastly at , in , and that your petitioner and his said wife have had issue of their said marriage, *five* children, of whom *two* sons only survive, aged respectively *twelve* and *fourteen* years.

3. That during the *three* years immediately preceding the day of one thousand eight hundred and , *X. Y.* was constantly, with few exceptions, residing in the house of your petitioner at aforesaid, and that on divers occasions during the said period, the dates of which are unknown to your petitioner, the said *C. B.* in your petitioner's said house committed adultery with the said *X. Y.*

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a dissolution of the said marriage, and that the said *X. Y.* do pay the sum of rupees 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Hon'ble) Courts seems fit.

(Signed) *A. B.* (*b*)

Form of verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

No. 2.—*Respondent's statement in answer to No.* 1.

In the Court of the day of
Between *A. B.*, petitioner,
C. B., respondent, and
X. Y., co-respondent.

C. B., the respondent, by *D. E.* her attorney [*or* vakíl] in answer to the petition of *A. B.* says that she denies that she has on divers or any occasions committed adultery with *X. Y.*, as alleged in the third paragraph of the said petition.

Wherefore the respondent prays that this (Hon'ble) Court will reject the petition.

(Signed) *C. B.*

No. 3.—*Co-respondent's statement in answer to No.* 1.

In the (High) Court of
The day of
Between *A. B.*, petitioner,
C. B., respondent, and
X. Y., co-respondent.

(*a*). If the marriage was solemnized out of India, the adultary must be shewn to have been committed in India.

(*b*). The petition must be signed by the petitioner.

X. Y., the co-respondent, in answer to the petition filed in this cause, saith that he denies that he committed adultery with the said *C. B.* as alleged in the said petition.

Wherefore the said *X. Y.* prays that this (Hon'ble) Court will reject the prayer of the said petitioner and order him to pay the costs of and incident to the said petition.

(Signed) *X. Y.*

No. 4.—PETITION *for Decree of Nullity of Marriage.*
(*See section* 18).

In the (High) Court of
To the Hon'ble Mr. Justice [*or* To the Judge of]
The day of , 186 .
The petition of *A. B.* falsely called *A. D.*,

SHEWETH,

1. That on the day of , one thousand eight hundred and , your petitioner, then a spinster, eighteen years of age, was married in fact, though not in law, to *C. D.*, then a bachelor of about thirty years of age, at [*some place in India.*]

2. That from the said day of , one thousand eight hundred and , until the month of , one thousand eight hundred and , your petitioner lived and cohabited with the said *C. D.*, at divers places, and particularly at aforesaid

3. That the said *C. D.* has never consummated the said pretended marriage by carnal copulation.

4. That at the time of the celebration of your petitioner's said pretended marriage, the said *C. D.* was, by reason of his impotency or malformation, legally incompetent to enter into the contract of marriage.

5. That there is no collusion or connivance between her and the said *C. D.* with respect to the subject of this suit.

Your petitioner therefore prays that this (Hon'ble) Court will declare that the said marriage is null and void. (Signed) *A. B.*

Form of Verification: See No. 1.

No. 5.—PETITION *by wife for judicial separation on the ground of her husband's adultery.*
(*See section* 22).

In the (High) Court of
To the Hon'ble Mr. Justice [*or* To the Judge of]
The day of 186 ,
The petition of *C. B.*, of the wife of *A. B.*

SHEWETH,

1. That on the day of , one thousand eight hundred and *sixty* your petitioner, then *C. D.*, was lawfully married to *A. B.*, at the Church of , in the

2. That after her said marriage, your petitioner cohabited with the said *A. B.* at and at , and that your petitioner and her said husband have issue living of their said marriage, *three* children, to wit, &c., &c. (*a*).

3. That on divers occasions in or about the months of *August, September* and *October*, one thousand eight hundred and *sixty* , the said *A. B.* at , aforesaid, committed adultery with *E. F.*, who was then living in the service of the said *A. B.* and your petitioner at their said residence aforesaid.

4. That on divers occasions in the months of *October, November* and *December*, one thousand eight hundred and *sixty* , the said *A. B.* at aforesaid, committed adultery with *G. H.*, who was then living in the service of the said *A. B.* and your petitioner at their said residence aforesaid.

5. That no collusion or connivance exists between your petitioner and the said *A. B.* with respect to the subject of the present suit.

Your petitioner therefore prays that this (Hon'ble) Court will decree a judicial separation to your petitioner from her said husband by reason of his aforesaid adultery.

(Signed) *C. B.* (*b*).

Form of Verification: See No. 1.

(*a*).—State the respective ages of the children.

(*b*).—The petition must be signed by the petitioner.

No. 6.—Statement in answer to No. 5.

In the (High) Court of

B. against *B.*

The day of

The respondent, *A. B.*, by *W. Y.*, his attorney [*or* vakíl] saith,—

1. That he denies that he committed adultery with *E. F.*, as in the third paragraph of the petition alleged.

2. That the petitioner condoned the said adultery with *E. F.*, if any.

3. That he denies that he committed adultery with *G. H.*, as in the fourth paragraph of the petition alleged.

4. That the petitioner condoned the said adultery with *G. H.*, if any.

Wherefore this respondent prays that this (Hon'ble) Court will reject the prayer of the said petition.

(Signed) *A. B.*

No. 7.—Statement in reply to No. 6.

In the (High) Court of

B. against *B.*

The day of

The petitioner, *C. B.*, by her attorney [*or* vakíl], says—

1. That she denies that she condoned the said adultery of the respondent with *E. F.* as in the second paragraph of the statement in answer alleged.

2. That even if she had condoned the said adultery, the same has been revived by the subsequent adultery of the respondent with *G. H.* as set forth in the fourth paragraph of the petition.

(Signed) *C. B.*

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*No. 8.—*Petition *for a judicial separation by reason of cruelty. (See section 22).*

In the (High) Court of

To the Hon'ble Mr. Justice [*or* To the Judge of]

The day of 186 .

The petition of *A. B.* (wife of *C. B.*) of

Sheweth,

1. That on the day of , one thousand eight hundred and , your petitioner, then *A. D.*, spinster, was lawfully married to *C. B.*, at .

2. That from her said marriage, your petitioner lived and cohabited with her said husband at until the day of , one thousand eight hundred and , when your petitioner separated from her said husband as hereinafter more particularly mentioned, and that your petitioner and her said husband have had no issue of their said marriage.

3. That from and shortly after your petitioner's said marriage, the said *C. B.* habitually conducted himself towards your petitioner with great harshness and cruelty, frequently abusing her in the coarsest and most insulting language, and beating her with his fists, with a cane, or with some other weapon.

4. That on an evening in or about the month of one thousand eight hundred and , the said *C. B.* in the highway and opposite to the house which your petitioner and the said *C. B.* were then residing at afore endeavoured to knock your petitioner down, and was only prevented from so by the interference of *F. D.*, your petitioner's brother.

5. That subsequently on the same evening, the said *C. B.* in his said aforesaid, struck your petitioner with his clenched fist a violen her face.

6. That on one Friday night in the month of one thousand eight h and , the said *C. B.*, in , without provocation, threw a kni your petitioner, thereby inflicting a severe wound on her right hand.

7. That on the afternoon of the day of , one thousand eight hundred and , your petitioner, by reason of the great and continued cruelty practised towards her by her said husband, with assistance withdrew from the house of her said husband to the house of her father at : that from and after the said day of , one thousand eight hundred and , your petitioner hath lived separate and apart from her said husband, and hath never returned to his house or to cohabitation with him.

8. That there is no collusion or connivance between your petitioner and her said husband with respect to the subject of the present suit.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a judicial separation between your petitioner and the said *C. B.*, and also order that the said *C. B.* do pay the costs of and incident to these proceedings.

(Signed) *A. B.*

Form of Verification : See No. 1.

No. 9.—*Statement in answer to No.* 8.

In the (High) Court of

The day of

Between *A. B.*, petitioner, and

C. B., respondent.

C. B., the respondent, in answer to the petition filed in this cause by *W. J.* his attorney [*or* vakíl] saith that he denies that he has been guilty of cruelty towards the said *A. B.*, as alleged in the said petition.

(Signed) *C. B.*

No. 10.—PETITION *for reversal of decree of separation.*
(See section 24*).*

In the (High) Court of
To the Hon'ble Mr. Justice [*or* To the Judge of]
The day of 186 .
The petition of *A. B.*, of

SHEWETH,

1. That your petitioner was on the day of lawfully married to

2. That on the day of , this (Hon'ble) Court at the petition of , pronounced a decree affecting the petitioner to the effect following, to wit,—

[*Here set out the decree*].

3. That such decree was obtained in the absence of your petitioner, who was then residing at

[*State facts tending to show that the petitioner did not know of the proceedings ; and, further, that had he known he might have offered a sufficient defence*].

or

That there was reasonable ground for your petitioner leaving his said wife, for that his said wife

[*Here state any legal grounds justifying the petitioner's separation from his wife*].

Your petitioner, therefore, prays that this (Hon'ble) Court will reverse the said decree.

(Signed) *A. B.*

Form of Verification : See No. 1.

No. 11.—PETITION *for Protection-order.*
(See section 27*).*

In the (High) Court of
the Hon'ble Mr. Justice [*or* To the Judge of]
The day 186 .
The petition of *C. B.*, of ,
the wife of *A. B.*

SHEWETH,

That on the day of she was lawfully married to *A. B.*, at

That she lived and cohabited with the said *A. B.* for years at , and also at , and hath had children, issue of her said marriage, of whom are now living with the applicant, and wholly dependent upon her earnings.

That on or about , the said *A. B.*, without any reasonable cause, deserted the applicant, and hath ever since remained separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained herself by her own industry [*or* on her own property, *as the case may be*], and hath thereby and otherwise acquired certain property consisting of [*here state generally the nature of the property*].

Wherefore she prays an order for the protection of her earnings and property acquired since the said day of , from the said *A. B.*, and from all creditors and persons claiming under him.

(Signed) *C. B.*

No. 12.—PETITION *for alimony pending the suit.*
(See section 36*).*

In the (High) Court of

B. against *B.*

To the Hon'ble Mr. Justice [*or* To the Judge of]

The day of 186 .

The petition of *C. B.*, the lawful wife of *A. B.*

SHEWETH,

1. That the said *A. B.* has for some years carried on the business of , at , and from such business derives the nett annual income of from Rs. 4,000 to 5,000.

2. That the said *A. B.* is possessed of plate, furniture, linen and other effects at his said house, aforesaid, all of which he acquired in right of your petitioner as his wife, or purchased with money he acquired through her, of the value of Rs. 10,000.

3. That the said *A. B.* is entitled, under the will of his father, subject to the life-interest of his mother therein, to property of the value of Rs. 5,000 or some other considerable amount *(a)*.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree such sum or sums of money by way of alimony, pending the suit, as to this (Hon'ble) Court may seem meet.

(Signed) *C. B.*

Form of Verification : See No. 1.

No. 13.—*Statement in answer to No.* 12.

In the (High) Court of

B. against *B.*

A. B. of , the above-named respondent, in answer to the petition for alimony, pending the suit, of *C. B.*, says—

1. In answer to the first paragraph of the said petition, I say that I have for the last *three* years carried on the business of , at , and that, from such business, I have derived a nett annual income of Rs. 900, but less than Rs. 1,000.

2. In answer to the second paragraph of the said petition, I say that I possessed of plate, furniture, linen and other chattels and effects at m house aforesaid, of the value of Rs. 7,000, but as I verily of no larger value. And I say that a portion of the said plate, furniture a chattels and effects of the value of Rs. 1,500, belonged to my said our marriage, but the remaining portions thereof I have since purc my own monies. And I say that, save as hereinbefore set forth, I am n of the plate and other effects as alleged in the said paragraph in the s and that I did not acquire the same as in the said petition also menti

3. I admit that I am entitled under the will of my father, life-interest of my mother therein, to property of the value of Rs. 5 say, I shall be entitled under my said father's will, upon the death of my to a legacy of Rs. 7,000, out of which I shall have to pay to my father's e the sum of Rs. 2,000, the amount of a debt owing by me to his estate, an which debt I am now paying interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say that I have no income whatever except that derived from my aforesaid business, that such income, since my said wife left me, which she did on the day of last, has been considerably diminished, and that such diminution is likely to continue. And I say that out of my said income, I have to pay the annual sum of Rs. 100 for

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(*a*).—The petitioner should state her husband's income as accurately as possible.

such interest as aforesaid to my late father's executors, and also to support myself and my two eldest children.

5. And, in further answer to the said petition, I say that, when my wife left my dwelling-house on the day of last, she took with her, and has ever since withheld and still withholds from me, plate, watches and other effects in the second paragraph of this my answer mentioned, of the value of, as I verily believe, Rs. 800 at the least ; and I also say that, within five days of her departure from my house as aforesaid, my said wife received bills due to me from certain lodgers of mine, amounting in the aggregate to Rs. , and that she has ever since withheld and still withholds from me the same sum.

(Signed) *A. B.*

No. 14.—UNDERTAKING *by minor's next friend to be answerable for respondent's costs. (See section* 49*).*

In the (High) Court of

I, the undersigned *A. B.*, of being the next friend of *C. D.* who is a minor, and who is desirous of filing a petition in this Court, under the Indian Divorce Act, against *D. D.* of , hereby undertake to be responsible for the costs of the said *D. D.* in such suit, and that, if the said *C. D.* fail to pay to the said *D. D.* when and in such manner as the Court shall order all such costs of such suit as the Court shall direct him [*or* her] to pay to the said *D. D.*, I will forthwith pay the same to the proper officer of this Court.

Dated this day of 186 .

(Signed) *A. B.*

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(*h*).—Power to make orders and issue warrants.
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(*j*).—Power to make rules.
(*k*).—Articles to be read periodically.

ACT No. V OF 1869.

(Received the assent of the Governor-General on the 26th February 1869.)

An Act to consolidate and amend the Articles of War for the government of Her Majesty's Native Indian Forces.

Preamble.

WHEREAS it is expedient to consolidate and amend the Articles of War for the government of the Native Officers, Soldiers and other persons in Her Majesty's Indian Army; It is hereby enacted as follows :—

PART I.—PRELIMINARY.

(*a*).—*Short Title.*

This Act may be called " The Indian Articles of War."

(*b*).—*Commencement of Act.*

This Act shall come into operation on the first day of June 1869.

(*c*).—*Repeal of Enactments.*

References to any Act hereby repealed, or any Act passed subsequently th shall be read as if made to this Act.

(*d*).—*Application of Articles.*

The Articles contained in Part II of this Act shall apply to all
Commissioned Officers,
Sub-Assistant Surgeons,
Hospital Assistants,
Native Doctors,
Warrant Officers,
Non-Commissioned Officers,
Hospital Attendants of any class,
Trumpeters, Buglers, Drummers,
Musicians,
Soldiers,
Unattested Recruits,
Lascars, Mahouts, Drivers,
Farriers, Syces, Grass-cutters,
Artificers, Labourers,
Sutlers, Followers, whether public or private, and all other persons attached to or serving with any portion of the said Army :

Proviso.

Provided that nothing in the said Part (other than Article 123) shall render any British-born subject of Her Majesty, or any legitimate Christian lineal descendant of such subject, whether in the paternal or maternal line, triable or punishable under the said Part, but all such persons belonging to her Majesty's Indian Army shall be triable and punishable as if they belonged to Her Majesty's British Forces.

And that nothing in the said Part shall render any American or any Christian European not being British-born, or any Christian legitimate lineal descendant of such American or European, whether in the paternal or maternal line, triable by a Court Martial composed of Native Commissioned Officers; but all such persons belonging to Her Majesty's Indian Army shall be triable by Courts Martial composed of European Officers only. Save as aforesaid, such persons shall be subject to this Act as if they were Natives of British India.

(*e*).—*Interpretation-clause.*

In this Act, unless there be something repugnant in the subject or context—

"Army" means Her Majesty's Indian Army, and "service" means service in such Army:

"Commissioned Officer" includes all Officers holding Commissions in the Native ranks of the Army, whether they be of purely Native or of a mixed European and Native extraction:

"European Officers" includes all European Officers holding Commissions in such Army or in Her Majesty's British Army:

"Commanding Officer" or "Officer Commanding" means the European Officer in actual command for the time being of any Force, Division, District, Regiment, Corps, Detachment, or Depôt, as the case may be:

"Judge Advocate" includes any European Officer duly authorized to officiate as Judge Advocate:

"Court Martial" means a Court Martial held under this Act, and in Articles 67, 68, 69 and 123 shall include a Court Martial held under the Act for punishing mutiny and desertion, and for the better payment of the Army and their quarters for the time being in force:

"Soldier" and "Soldiers" include Non-Commissioned Officers and all armed persons doing duty in the ranks of the Army:

"Attested" means attested under the Articles contained in Part II of this Act:

"Deserter" means a person subject to such Articles, who has deserted from the Army:

"Government" means, in the case of the Madras Army, the Governor of Fort Saint George in Council, in the case of the Bombay Army, the Governor of Bombay in Council, and in the case of any other part of Her Majesty's Indian Army, the Governor-General of India in Council;

And the expressions "assault," "criminal force," "dishonesty," "extortion," "fraudulently," "grievous hurt," "hurt," "theft," "voluntarily causes hurt," "voluntarily causes grievous hurt," "reason to believe," "wrongful gain" and "wrongful loss" shall be severally taken to have the meanings assigned to them vely in the Indian Penal Code, and quoted in Part I of the appendix to this

Article

" (*f*).—*Saving of certain Regulations.*

" 1 g in this Act affects any Regulations by which the respective offices and

" 16 antonment Magistrates, Commissariat Officers, Officers in charge of the

" 16 antonments, and Superintendents of Military Bázárs are defined and

" or by which Panchâyats are constituted and guided.

Art.

PART II.—THE ARTICLES OF WAR.

TITLE I.—ENLISTMENT, DISMISSAL AND DISCHARGE.

CHAPTER I.—*Enlistment.*

Articles to be read to recruits.

Article 1.—Every person prior to being enrolled in any Regiment or Corps shall have the 7th, 8th, 9th, 10th, 11th, 24th, 38th and 53rd of these Articles read and explained to him.

Affirmation.

When reported fit for duty, such declaration or charge as may be usual shall be made to him, by the Officer Commanding, in front of the Regiment or Corps, or of such portion thereof as shall be present; and the person shall then make the following affirmation :—

"I , inhabitant of , son of , solemnly, "affirm in the presence of Almighty God that I will be faithful to Her Majesty "the Queen, Her heirs and successors, and will go wherever I am ordered, by land "or sea, and will obey all commands of the Officers set over me, even to the peril "of my life."

Attestation.

Article 2.—All persons of the following classes, hereafter enlisted or enrolled under these Articles, shall be attested according to the regulations of the government to which they are respectively subject :—Sub-Assistant Surgeons, Hospital Assistants, Native Doctors, Warrant Officers of any Department, Trumpeters, Buglers, Drummers, Musicians, Soldiers, Lascars, Mahouts, Drivers, Farriers, Syces and Grass-cutters.

Articles 3, 4, 5, 7, to 71 (both inclusive), 90 to 94 (both inclusive), 130 to 139 (both inclusive), 154, 167 and 176 shall be read to every person enlisted or enrolled under these Articles at the time of his attestation.

CHAPTER II.—*Dismissal and Discharge.*

Dismissal of Commissioned Officers.

Article 3.—A Commissioned Officer shall be liable to dismissal from the service by the sentence of a General Court Martial, or by order of the Governor-General of India in Council, or of the Commander-in-Chief of the Presidency to which he belongs, or, if the Officer belongs to either of the Presidencies of Fort St. George or Bombay, of the Governor in Council of such Presidency.

Every Commissioned Officer dismissed under these Articles shall forfeit all claim to pension.

Dismissal of other persons.

Article 4.—Any person subject to these Articles, other than a Commissioned Officer, shall be liable to dismissal from the service

by the sentence of any Court Martial empowered to try him,

or by order of the Governor-General of India in Council, or of the Commander-in-Chief of the Presidency to which he belongs,

or, if he belongs to either of the Presidencies of Fort St. George and Bombay, by order of the Governor in Council,

or, if he belongs to a Force not attached to any such Presidency, by order of the Officer Commanding such Force.

Every such person so dismissed shall forfeit all claim to pensi

Attested person dismissed and

Article 5.—Every attested person of or below Officer who has been dismissed or discharged from tl re-enters the service without at the time stating the or shewing his certificate of dismissal or discharge, by the Officer Commanding the regiment or corps wit

Certificate to person dismis

Article 6.—Every attested person who is dismisse vice, shall be furnished by his Commanding Officer wi language and in the mother-tongue of such person (English), setting forth

(*a*) the authority dismissing or discharging him,

(*b*) the cause of his dismissal or discharge, and

(*c*) the full period of his service in the Army.

TITLE II.—MILITARY OFFENCES.

CHAPTER I.—*Crimes punishable with Death or Transportation.*

Mutiny and Sedition.

Article 7.—Any person subject to these Articles—

Who begins, excites, causes or joins in any mutiny or sedition in any regiment corps, detachment, or guard;

or who, being present at any mutiny or sedition, does not use his utmost endeavours to suppress the same,

or who, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State,

does not, without delay, give information thereof to his Commanding or other superior Officer ;—or

Violence to superior.

Article 8.—Who uses or attempts to use criminal force to, or commits an assault on, his superior Officer, whether on or off duty, under any circumstances in which the superior Officer is distinguishable as such in any manner ;—or

Disobedience.

Article 9.—Who disobeys the lawful command of his superior Officer ;—or

Desertion.

Article 10.—Who deserts the service ;—or

Re-enlistment without having been discharged.

Article 11.—Who, without having first obtained a regular discharge from the regiment or corps to which he belongs, enlists, or enrols himself in any other regiment or corps ;—or

Sentry sleeping on or quitting post in time of war.

Article 12.—Who, being a sentry in time of war or alarm, or over any State-prisoner, treasure, magazine, or dockyard, sleeps upon his post, or quits it without being regularly relieved, or without leave ;—or

Sentry plundering.

Article 13.—Who, being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge, or under charge of his guard ;—or

Abandoning garrison.

Article 14.—Who shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend ;—or

Betraying watch-word.

Article 15.—Who treacherously makes known the watch-word to any person not entitled to receive it according to the rules and discipline of war ;—or

Corresponding with enemy.

Article 16.—Who directly or indirectly holds correspondence with, or communi-
" Intelligence to the enemy, or any person in arms against the State, or who,
" fraudulen he knowledge of any such correspondence or communication, omits to
" voluntarily radiately to his Commanding or other superior Officer ;—or
" wrongful loss" shall be sever
vely in the Indian Pena *Assisting enemy.*

Article indirectly assists or relieves with money, victuals
" (f).—Sa bours or protects any enemy, or person in arms
" 1 g in this Act aff
" 16 antonment Mag *Releasing Prisoners.*
" 16 antonments, an proper authority, releases any State-prisoner, enemy,
" or by which Pancha the State, placed under his charge, or who negli-
enemy or person to escape ;—or

Art

PART I viour *in presence of enemy.*

sence of an enemy, or of any persons in arms against
act, shamefully casts away his arms or ammunition, or
intentionally disheartens or any other means to induce any Officer or Soldier to abstain from acting against the enemy or to discourage such Officer or Soldier from acting against the enemy, or who otherwise misbehaves ;—or

Seeking plunder during action.

Article 20.—Who, in time of action, without authority, leaves his Commanding Officer, or his post, or colours, or party to go in search of plunder ;—or

Quitting guard in time of war.

Article 21.—Who, in time of war, quits his guard, picquet, party or patrol, without being regularly relieved or without leave ;—or

Assaulting persons bringing provisions.

Article 22.—Who, in time of war, or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to the camp or quarters of any of Her Majesty's forces,

or forces a safeguard, or, without authority, breaks into any house or other place for plunder ; or plunders, injures or destroys any field, garden or other property of any kind ;—or

Causing false alarm in time of war.

Article 23.—Who, in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports by words or by letters calculated to create alarm or despondency.

Punishment for the foregoing offences.

Article 24.—Shall, on conviction, suffer death, or transportation for life or for a term of not less than seven years,

or imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to fourteen years,

or such other punishment as a General Court Martial is, by these Articles, empowered to award.

Whenever any person is convicted under this section of an offence punishable with death, all his property, moveable and immoveable, shall be forfeited to Government.

CHAPTER II.—*Crimes punishable otherwise than by Death or Transportation.*

Unbecoming behaviour.

Article 25.—Any Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer,

who behaves in a manner unbecoming his position and character ;—and

Intoxication on duty.

Article 26.—Any person subject to these Articles,

who is in a state of intoxication when on or for any duty, or on parade, or on the line of march ;—or

Striking sentry.

Article 27.—Who strikes, or forces or attempts to force any sentry ;—or

Harbouring deserter.

Article 28.—Who knowingly harbours any desert[illegible] *nlisting.* [illegible] money, [illegible]er ; or [illegible] knowing [illegible]pments or [illegible]ing reason to believe, that any other person has deser[illegible]ed, or that any deserter [illegible] his charge harboured by any other person, does not immediat[illegible]ly give notice to [illegible] some other superior Officer, or use his utmost ende[illegible]avours to cause such [illegible]any direction be apprehended ;—or

Enlisting deserter.

Article 29—Who knowing, or having reason [illegible] believe, that a [illegible]ng or having [illegible] or convert- deserter enlists him ;—or

Absence without leave.

Article 30.—Who absents himself without leave [illegible] Government [illegible] or, without suf[illegible]or overstays leave granted to him ;—or

Failure to rejoin.

Article 31.—Who, being on leave of absence and having r[illegible]eceive[illegible]n, makes any [illegible]ourt Martial, from proper authority that his regiment or corps has been ordere[illegible] on s[illegible] false, or does without sufficient cause, to rejoin without delay ;—or

Failure to attend pa ade.

Article 32.—Who, without sufficient cause, fails to appear at the time fi[illegible]d to be the parade or place appointed for exercise or duty ;—or [illegible]im

Quitting parade or division.

Article 33.—Who, when on parade, or on the line of march, without sufficient cause, or without leave from his superior Officer, quits the parade or line of march ;—or

Quitting guard in time of peace.

Article 34.—Who, in time of peace, quits his guard, picquet, or patrol, without being regularly relieved, or without leave ;—or

Refusing to receive or releasing prisoners.

Article 35.—Who, being in command of a guard, picquet, or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape ;—or

Leaving arrest.

Article 36.—Who, being under arrest, or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority ;—or

Insubordination.

Article 37.—Who is grossly insubordinate or insolent to his superior Officer in the execution of his office ;—or

Refusal to superintend military work.

Article 38.—Who refuses to superintend or assist in the making of any field-work, or other military work of any description, ordered to be made either in quarters or in the field ;—or

Impeding Provost Marshal.

Article 39.—Who impedes a Provost Marshal or an Assistant Provost Marshal, or any person lawfully exercising authority, or refuses when called upon to assist such person when requiring aid in the execution of his duty ;—or

Striking subordinates.

Article 40.—Who strikes or otherwise ill-treats any soldier or other person attested under these Articles being his subordinate in rank or position ;—or

Extortion.

Article 41.—Who commits extortion ; or, without proper authority, exacts from any person carriage, porterage, or provisions ;—or

House-breaking or plundering in time of peace.

Article 42.—Who, in time of peace, commits house-breaking for the purpose of plundering ; or plunders, destroys, or damages any field, garden, or other property ;—or

Neglecting to compensate person injured by subordinate.

43.—Who, being in command at any post, or on the march, and receiving [illegible] that any one under his command has beaten, or otherwise maltreated any person, or has disturbed any fair or market, or committed any [illegible], fails to have due reparation made to the injured person, or to [illegible] to the proper authority ;—or

Defiling places of worship.

44.—Who, by defiling any place of worship, or otherwise, intentionally [illegible] religion or wounds the religious feelings of any person ;—or

Taking bribes.

[illegible].—Who, directly or indirectly, requires, accepts, or obtains, or agrees [illegible] attempts to obtain, for himself or for any other person, any gratifica-[illegible]tive or reward for procuring the enlistment or enrolment of any person, [illegible] absence, promotion, or any other advantage or indulgence for any [illegible]e service ;—or

Causing false alarm in time of peace.

[illegible]*ticle* 46.—Who, in time of peace, by any means whatever, intentionally [illegible]asions a false alarm in camp, garrison, or cantonment ;—or

Making away with regimental necessaries.

Article 47.—Who designedly or through neglect kills, injures or loses his horse, or who dishonestly or fraudulently removes, conceals or delivers to any person, or who designedly or through neglect injures or loses his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements, or regimental necessaries, or any such articles entrusted to him, or belonging to any other person,

or who sells, pawns, destroys or defaces any medal or decoration granted to him by order of Her Majesty, or of the East India Company, or of the Governor General of India in Council for service in the field, or for general good conduct ;—or

Attempting suicide.

Article 48.—Who attempts to commit suicide, and does any act towards the commission of such offence ;—and

Appearing armed in camp.

Article 49.—Any person subject to these Articles below the rank of Warrant Officer—

Who, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to, or returning from, any town or bázár, carrying a sword, bludgeon, or other offensive weapon ;—or

Sentry sleeping on post in time of peace.

Article 50.—Who, being a sentry, in time of peace, sleeps upon his post, or leaves it before being regularly relieved, or without leave ;—or

Absence from camp.

Article 51.—Who, without proper authority, is found two miles or upwards from camp ;—or

Absence from cantonment after tattoo.

Article 52.—Who, without proper authority, is absent from his cantonment or lines after tattoo, or from camp after retreat-beating ;

Punishment for offences mentioned in Articles 25—52.

Article 53.—Shall, on conviction by any Court Martial competent to try him, be sentenced to such punishment, other than death or transportation, as such Court is, by these Articles, empowered to award.

CHAPTER III.—*Crimes to be punished with dismissal from the service.*

Embezzlement.

Article 54.—Any person subject to these Articles—

Who dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of Government, entrusted to his charge on the public account, or for any military purpose,

or who dishonestly uses or disposes of such property in violation of any direction of a proper authority,

or who dishonestly receives or retains any such property, knowing or having reason to believe the same to have been dishonestly misappropriated or converted ;—or

Destruction of Government property.

Article 55.—Who wilfully destroys or injures any property of Government entrusted to him on the public account, or for any military purpose ;—or

Giving false evidence.

Article 56.—Who, having been duly sworn or affirmed before any Court Martial, or other Military Court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true ;—

Punishment for offences mentioned in Articles 54, 55, 56.

Article 57.—Shall, if convicted by a General Court Martial, be sentenced to be dismissed the service and to forfeit any arrears of pay and allowances due to him.

at the time of dismissal ; and shall be punishable also with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to three years : and shall, if convicted by a District or Garrison Court Martial, be liable to any or all of the penalties which such Court may inflict for disgraceful conduct.

CHAPTER IV.—*Disgraceful Conduct.*

Malingering.

Article 58.—Any person subject to these Articles—

Who malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity ;—or

Wilfully causing hurt.

Article 59.—Who, with intent to render himself or any other person unfit for service, voluntarily causes hurt or voluntarily causes grievous hurt to himself or any other person ;—or

Theft.

Article 60.—Who commits theft in respect of any property of Government, or of any Officer or Soldier, or of any other person in the service, or of any military mess or band, or of any person serving with or attached to the Army, or who dishonestly receives or retains any such property, knowing or having reason to believe it to be stolen ;—or

Embezzlement of Government property not entrusted on public account.

Article 61.—Who dishonestly misappropriates or converts to his own use any property of Government entrusted to him for any purpose not provided for in Articles 54 and 55,

or who dishonestly receives or retains any such property knowing or having reason to believe it to have been dishonestly misappropriated or converted ;—or

Obtaining pension by false statement.

Article 62.—Who obtains or attempts to obtain for himself, or for any other person, any pension, allowance, or other advantage or privilege by a statement which is false, and which he knows or has reason to believe to be false, or does not know to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement ;—or

Furnishing false returns.

Article 63.—Who knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men, or to Government, or to any person in or attached to the Army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ;—or

Other fraudulent offences.

Article 64.—Who does any other thing with intent to defraud, or to cause wrongful gain to one person, or wrongful loss to another person ;—or

Cruelty or Indecency.

Article 65.—Who commits any other offence of a cruel, indecent, or unnatural kind, or attempts to commit any such offence and does any act towards its commission—

Penalties for offences specified in Articles 58—65.

Article 66.—May be tried for disgraceful conduct, and shall, on conviction by a General, District or Garrison Court Martial, be liable to any or all of the penalties awardable by such Court for disgraceful conduct.

CHAPTER V.—*Offences against Courts Martial.*

Refusal to attend or be sworn.

Article 67.—Any person subject to these Articles who, when duly summoned to attend as a witness before a Court Martial, intentionally omits to attend, or

refuses to be sworn or make affirmation, or to answer any question, or to produce or deliver up any book or document which he may have been duly warned and called upon to produce or deliver up, or prevaricates ;—or

Contempts.

Article 68.—Who intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of a Court Martial while sitting ;—

Punishment for offences specified in Articles 67 *and* 68.

Article 69.—Shall, on conviction by the same or by any other Court Martial which is competent to try the offender, be liable to such punishments as the convicting Court is, by these Articles, empowered to award.

CHAPTER VI.—*Unspecified Offences.*

Article 70.—All offences not punishable with death, all neglects to obey any garrison or other orders, and all acts and omissions, of which any person subject to these Articles is accused, shall, though not specified in these Articles, if they be prejudicial to good order and military discipline, be taken cognizance of and punished according to the nature and degree of the offence, act or omission by any Court Martial empowered to try the person guilty of such offence, act or omission.

Abetment.

Article 71.—Every person subject to these Articles who abets, within the meaning of the Indian Penal Code, sections 107 and 108, any of the offences specified in Articles 7, 8, 10, 13, 14, 18 and 19, may be punished with the punishment hereinbefore provided for such offence.

Every such person who abets, within the meaning of the Indian Penal Code, sections 107 and 108, any other offence punishable under this Act, shall be punished

with imprisonment of any description provided by this Act for the offence so abetted for a term which may extend to one-half of the longest term of such imprisonment,

or with one-half of any other penalty awardable by the Court by which he is convicted,

or, if the offence is punishable with death or transportation for life, with transportation for a term not less than seven years or with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to ten years.

The said sections of the Indian Penal Code are set forth in Part II of the Appendix to this Act.

TITLE III.—JURISDICTION.

CHAPTER I.—*Courts Martial.*

Kinds of Courts Martial.

Article 72.—For the purposes of these Articles, there shall be eight kinds of Courts Martial, (that is to say),—

(1).—General Courts Martial.
(2).—Detachment General Courts Martial.
(3).—District Courts Martial.
(4).—Garrison Courts Martial.
(5).—Regimental Courts Martial.
(6).—Regimental Detachment Courts Martial.
(7).—Detachment Courts Martial, and
(8).—Summary Courts Martial.

(1).—*General Court Martial.*

Appointment of General Court Martial.

Article 73.—A General Court Martial may be appointed—

(*a*).—By the Commander-in-Chief of a Presidency :

(*b*).—By any Officer authorized to appoint General Courts Martial by warrant of the Commander-in-Chief of a Presidency :

(*c*).—By any Officer in actual command of Native troops who is authorized to appoint General Courts Martial by order of the Governor-General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council.

(*d*).—By any Officer commanding Native troops not attached to the forces of a Presidency who is authorized to appoint General Courts Martial by warrant which the Governor-General of India in Council has empowered the Commander-in-Chief in India to issue.

Composition of such Court.

Article 74.—Except as hereinafter provided, every General Court Martial shall, if held in British India, consist of not less than nine Commissioned Officers, but may, if held out of British India, consist of seven Commissioned Officers, if a greater number cannot be conveniently assembled.

Composition of such Court appointed under Orders in Council.

Article 75.—A General Court Martial appointed under the authority of an Order in Council shall consist of not less than five Commissioned Officers, and shall, if so provided in the Order, be composed either of European or of Native Commissioned Officers at the discretion of the Officer appointing it.

Powers of such Court.

Article 76.—A General Court Martial shall have power to try all persons subject to these Articles accused of mutiny or of any other offence punishable under this Act, and to pass sentences of death,

Transportation for life or for any period not less than seven years,

Imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years,

Dismissal from the service,

Suspension from rank, pay and allowances for any stated period,

Degradation,

Loss of standing,

Reduction to the ranks,

Corporal punishment not exceeding fifty lashes,

Forfeiture of additional pay, good-conduct pay, and claim to pension,

Forfeiture of arrears of pay and allowances,

Stoppages.

Whenever any person is convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that all the rents and profits of his moveable and immoveable estate during the period of his transportation or imprisonment shall be forfeited to Government, subject to such provision for his family and dependents as the Government may think fit to allow during such period.

(2).— *Detachment General Court Martial.*

Appointment of such Court Martial.

Article 77.—When any portion of Her Majesty's troops is serving in any place not in British India, and not within the dominions of the Princes and States of India in alliance with Her Majesty, wherein Her Majesty's forces are permanently [illegible]hment General Court Martial may be appointed :—

[illegible]mmander-in-Chief of a Presidency :

[illegible]er authorized to appoint Detachment General Courts Martial [illegible]mander-in-Chief of a Presidency ;

[illegible] in actual command of such troops, upon complaint being [illegible]nst the person or property of any resident of such place, com- [illegible] under such Officer's command and subject to these Articles.

Its Composition and Powers.

[illegible]uch Court Martial shall consist of not less than three Commis- [illegible] shall have the same powers as a General Court Martial.

(3).—*District Court Martial, and*

[illegible].—*Garrison Court Martial.*

Appointment of such Courts.

Article 79.—A District or Garrison Court Martial may be appointed—

(*a*).—By the Commander-in-Chief of any Presidency :

(*b*).—By any Officer authorized to appoint District or Garrison Courts Martial (as the case may be) by warrant of the Commander-in-Chief of any Presidency :

(*c*).—By any Officer in actual command of Native troops authorized to appoint District or Garrison Courts Martial (as the case may be) by order of the Governor-

General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council :

(*d*).—By any Officer commanding Native troops not attached to the forces of a Presidency authorized to appoint District or Garrison Courts Martial (as the case may be) by warrant which the Governor-General of India in Council has empowered the Commander-in-Chief in India to issue.

Composition of such Courts.

Article 80.—(*a*). Except as hereinafter provided, a District or Garrison Court Martial shall consist of seven Commissioned Officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than five such Officers.

(*b*). A District Court Martial appointed under the authority of an Order in Council, may consist of any number of Commissioned Officers not less than three ; and may, if so provided in the Order, be composed either of European or of Native Commissioned Officers at the discretion of the Officer appointing it.

Officers composing such Courts.

Article 81.—A District or Garrison Court Martial may, when necessary, be composed wholly of Officers of the regiment or corps to which the accused belongs : Provided that on the trial of a Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer, not more than two Officers of the same regiment, corps, detachment, depôt or department as the accused shall sit upon any such Court.

Powers of such Courts.

Article 82.—A District or Garrison Court Martial shall have power to try all persons subject to these Articles, other than Commissioned Officers, for any offence other than mutiny made punishable by these Articles, and to pass sentences of—

Imprisonment (with or without hard labour, and with or without solitary confinement) for a term not exceeding one year,
Dismissal from the service,
Suspension from rank, pay and allowances,
Degradation,
Loss of standing,
Reduction to the ranks,
Corporal punishment not exceeding fifty lashes,
Forfeiture of additional pay, good-conduct pay and claim to pension,
Forfeiture of arrears of pay and allowances,
Stoppages.

(5).—*Regimental Court Martial.*

Appointment of such Court.

Article 83.—A Regimental Court Martial may be appointed by the Officer commanding any regiment or corps.

Composition of such Court.

Article 84.—A Regimental Court Martial shall consist of [illegible] Commissioned Officers, unless that number cannot convenie[illegible] whch case such Court may consist of not less than three such O[illegible]

Powers of such Court.

Article 85.—A Regimental Court Martial shall have power [illegible]

(*a*).—All persons subject to these Articles, other than Comm[illegible] Sub-Assistant Surgeons, Hospital Assistants, Native Doct[illegible]s and V[illegible] for any offence other than mutiny, desertion or disgraceful cond[illegible] under these Articles, when committed on the line of march, or on [illegible]

(*b*).—Any offence punishable under this Act, and not with[illegible] diction of a Regimental Court Martial, other than mutiny, [illegible] conduct, when the Officer commanding the Division or [illegible] tried by a Regimental Court Martial ; and

(*c*).—Any offence punishable under these Articles, other than oth[illegible] [illegible]nt within the ordinary jurisdiction of a Regimental Court Martial—

and to pass sentences of—
Dismissal,
Loss of standing,
Reduction to the ranks,

Imprisonment (with or without hard labour and with or without solitary confinement) for a term not exceeding six months,

Corporal punishment not exceeding fifty lashes,

Forfeiture of arrears of pay and allowances,

Stoppages.

(6).—*Regimental Detachment Court Martial, and*

(7).—*Detachment Court Martial.*

Appointment of Regimental Detachment Court Martial.

Article 86.—A Regimental Detachment Court Martial may be appointed by the Officer commanding a detachment of his own regiment or corps :

Appointment of Detachment Court Martial.

Article 87.—A Detachment Court Martial may be appointed,—

(*a*).—By the Officer commanding any Station, Force or Detachment of men of different regiments or corps ;

(*b*).—By the Officer in command of any detachment when any offence not within the ordinary jurisdiction of a Regimental Court Martial (other than mutiny, desertion, or disgraceful conduct), is committed on the line of march, or on board any vessel.

Composition of such Courts.

Article 88.—A Regimental Detachment Court Martial and a Detachment Court Martial shall consist of not less than five Commissioned Officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than three Commissioned Officers.

Powers of such Courts.

Article 89.—A Regimental Detachment Court Martial and a Detachment Court Martial shall have the same powers as a Regimental Court Martial.

(8).—*Summary Courts Martial.*

Article 90.—(*a*). Subject to the provisions and restrictions contained in Articles 91, 92, 93, 94, 125 and 126, a Summary Court Martial may be held by the European Commissioned Officer who is in actual command, for the time being, of any regiment or corps,

or of any detachment consisting of, or equivalent in strength to, three troops or companies,

or of any European corps or detachment to which Native details subject to these Articles are attached.

or who is in charge of any arsenal, ordnance establishment, or camp equipage depôt.

(*b*).—In detached situations, beyond sea, or out of British India, or on service [illegible] field, [illegible] under any circumstances where, immediate example being necessary, stationed, a Detac[illegible] Martial cannot be assembled as provided in Article 87, and

(*a*).—By the Co[illegible]e to superior authority without detrment to the service, a

(*b*).—By any Offic[illegible] may be held by the European Commissioned Officer com- by warrant of the Com[illegible] any strength :

(*c*).—By the Officer [illegible] Officer is of less than five years' standing, he shall not made of an offence aga[illegible]ntence by such Court Martial, until it has received the [illegible]mitted by any person [illegible] superior Military Officer holding a command of not less than

Article 78.-p[illegible] *Constitution of such Courts.*

[illegible]sioned Officers, [illegible] Summary Court Martial, the Commanding Officer hold- [illegible] Court.

(4) *Persons triable by such Court.*

[illegible] no Commanding Officer shall have power to try by a Summary Court [illegible] Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, [illegible]tive Doctor, or Warrant Officer, or any person who is not liable to trial by Courts composed of Native Commissioned Officers ; but all other persons subject to these Articles shall be liable to trial and punishment by a Summary Court Martial :

Provided that no person shall be so tried unless he is under the command of the Officer holding the trial.

Offences triable by such Court.

Article 93.—Any offence against these Articles, except mutiny, may be tried and punished by Summary Court Martial:

Provided that, when there is no emergent reason for immediate action, and reference can, without detriment to discipline, be made to superior military authority, a Commanding Officer shall not try by Summary Court Martial, without such reference, any of the following offences :—

Offences under Articles 8 to 23 both inclusive, ordinarily punishable by General Court Martial only :

Disgraceful offences under Articles 54, 55, 56, 60, 61 and 64 ; and

Offences against such Commanding Officer.

Its powers.

Article 94.—A Summary Court Martial held by any Officer Commanding a regiment or corps may award any sentence not exceeding that awardable by a District Court Martial. .

A Summary Court Martial held by any Commanding Officer other than the Officer Commanding a regiment or corps, may award any sentence not exceeding that awardable by Regimental or Detachment Court Martial.

Trial of grave offences by inferior Courts.

Article 95.—Save, as provided by Article 85, clauses (*a*) and (*b*) and Article 89, no Commanding Officer shall try by a Regimental or Detachment Court Martial offences which are by these Articles declared to be punishable by a General, District or Garrison Court Martial only. But, as it may be expedient that some such offences should be tried by inferior Courts Martial, the Commanding Officer of any Regiment, Corps or Detachment shall, in every such instance, submit the case for the orders of the Officer Commanding the Division or District in which he is serving, and the Officer Commanding such Division or District, whether on or without such application, may direct trial by such kind of Court Martial as he thinks fit :

Provided that mutiny shall in no case be tried save by a General Court Martial, and that desertion and disgraceful conduct shall in no case be tried by any Court Martial inferior to a District or Garrison Court Martial.

The permission to try grave offences by District or Garrison, Regimental or Detachment Courts Martial, shall be entered upon the proceedings of such Court, and in the monthly return of trials furnished to Army Head Quarters.

Courts composed of European Officers.

Article 96.—The Governor-General of India, or the Governor of any Presidency, may, by an order in Council, direct that any Court Martial appointed under these Articles, shall be composed of European instead of Native Commissioned Officers, or authorize any General or other Officer to appoint Courts Martial so composed at his discretion.

Any such Court Martial shall in such case be constituted accordingly, but shall in all other respects be governed by these Articles.

Claim to be tried by European Officers.

Article 97—With the exception of cases of trial by Courts Martial appointed under Orders in Council, every person subject to these Articles, who is under orders for trial by Court Martial, may claim to be tried by European Officers.

When any such claim is made, the Court, whether a General, District, Garrison, Regimental or Detachment Court Martial, shall be composed of European instead of Native Commissioned Officeres ; but shall in all other respects be governed by these Articles.

CHAPTER II.—*Procedure.*

Limitation of trials.

Article 98.—No person subject to these Articles shall be tried or punished by a Court Martial for any military offence after the expiration of three years from the date of such offence, unless the offender, by reason of absence or of some other manifest impediment, could not be arrested or confined and brought to trial within that period ; in which case he shall be liable to be tried at any time not exceeding two years after such impediment shall have ceased.

Place of trial.

Article 99.—Any person subject to these Articles who commits any offence against them, may be tried and punished for such offence in any place whatever in the same manner as if the offence had been committed in such place.

Arrest or confinement of accused.

Article 100.—Whenever any person subject to these Articles is accused of any military offence which his Commanding or other superior Officer considers should be tried by Court Martial, such Officer shall order the accused, if not below the rank of Non-Commissioned Officer, to be placed in arrest, or if below such rank, to be put in confinement, until he can be tried by a Court Martial, or discharged by proper authority.

No such person shall be detained in arrest or confinement longer than is necessary for the purposes of justice.

Judge Advocate.

Article 101.—It shall not be necessary to appoint a Judge Advocate to any General Court Martial appointed under the authority of an Order in Council. But every other General Court Martial shall be attended by a Judge Advocate, who shall conduct the proceedings; and every District or Garrison, Regimental or Detachment Court Martial, composed of Native Commissioned Officers, shall be attended by an European Superintending Officer of not less than four years' service, who shall conduct the proceedings.

Interpreter.

Article 102.—An Interpreter shall be appointed to every Court Martial, and shall, when the Court is composed of Native Officers, form part of such Court.

If no duly qualified Interpreter is available at the station or place where the Court Martial sits, the Officer appointing the Court, or the Officer Commanding in the Division, District, or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of Interpreter.

When no other qualified or competent person is available, the Superintending Officer, or in the case of an European Court, the President, shall perform the duty of Interpreter.

No Interpreter shall, as such, have a vote upon any matter.

President.

Article 103.—At every Court Martial, whether composed of European or Native Commissioned Officers, the senior Officer shall sit as President, without special appointment as such.

In case of the death or unavoidable absence of the President, the next senior member shall take the place of President, without special appointment as such, and the trial shall proceed if the Court be still composed of the smallest number of members of which it is required by these Articles to consist.

Conduct of Proceedings.

Article 104.—In the case of any General Court Martial appointed under an Order in Council, or of any other Court Martial composed of European Commissioned Officers under Article 96 or 97, the President shall conduct the proceedings.

Precedence of Native Officers.

Article 105.—Risáldár Majors and Súbahdár Majors shall take precedence according to the dates of their commissions, and above all Súbahdárs or Risáldárs.

Sirdár Bahádurs and Bahádurs shall take rank only according to their respective commissions of Risáldár Major, Súbahdár Major, Risáldár, Risáldár Súbahdár, or Jemadár.

Risáidárs shall take rank with Súbahdárs, according to the dates of their commissions as Risáidárs, or if they have not been Risáidárs then according to the dates of their commissons as Risáldárs.

Time of Trial, Adjournment and Re-assembly.

Article 106.—Trials by Courts Martial may be carried on at any time without restriction.

The date and hour of the Court's original assembly shall be fixed by, or under the orders of the convening Officer; but the adjournment and re-assembly of a Court Martial shall be determined by the Court itself.

Challenges.

Article 107.—At all trials by Courts Martial, other than Courts Martial appointed under an order in Council or Summary Courts Martial, as soon as the Court is assembled, the names of the President and Members shall be read over to the prisoner, who shall thereupon be asked by the Officer conducting the proceedings, whether he objects to being tried by any Officer sitting on the Court.

If the prisoner objects to any such Officer, his objection, and also the reply thereto of the Officer objected to, shall be heard and recorded, and the remaining Officers of the Court shall, in the absence of the challenged Officer, decide on the objection.

When no challenge is made, or when challenge has been made and disallowed, or the place of every Officer successfully challenged has been filled by another Officer to whom no objection is made or admitted, the Court shall proceed as hereinafter provided.

Interpreter's oath.

Article 108.—The Officer conducting the proceedings shall then administer to the Interpreter, or, when necessary, shall himself make as Interpreter, an affirmation or oath as follows :—

"I solemnly affirm in the presence of Almighty God, that I will "faithfully interpret and translate the proceedings of this Court; and that I will "not divulge the sentence until it shall have been published by authority; and, "further, that I will not disclose or discover the vote or opinion of any particular "member of the Court unless required to give evidence thereof by a Court of "Justice or Court Martial, in due course of law."

When oath is made instead of affirmation, the oath shall commence—

"I do swear that I will faithfully interpret," &c., and shall be in all other respects in the above form, and shall end with the words, "So help me God."

Oaths of President and Members.

Article 109.—The Interpreter, or the Officer conducting the proceedings, shall then administer to the President and each of the Members of the Court Martial an affirmation or oath in such of the following forms as shall be appropriate :—

For European Officers.

"I solemnly affirm, in the presence of Almighty God, that I will "duly administer justice, according to the Indian Articles of War, without partiality, "favour or affection; and if any doubt shall arise, then, according to my conscience, "the best of my understanding. and the custom of war in the like cases; and that "I will not divulge the sentence of the Court until it shall be published by authority; "and, further, that I will not disclose or discover the vote or opinion of any par-"ticular member of the Court, unless required to give evidence thereof by a Court "of Justice or a Court Martial, in due course of law."

When oath is made instead of affirmation, the oath shall commence—

"I do swear that I will duly administer justice," &c., and shall be in all other respects in the above form, and shall end with the words, "So help me God."

For Native Officers of the Mussulman or Hindú religion, or of any other religion for which it may be appropriate.

"I solemnly affirm, in the presence of Almighty God, that "I will duly administer justice according to the Indian Articles of War, without "partiality, favour or affection; and if any doubt shall arise, then, according "to my conscience, the best of my understanding, and the custom of war in the "like cases; and that I will not divulge the sentence of the Court until it shall be "published by authority; and, further, that I will not disclose or discover the vote "or opinion of any particular member of the Court, unless required to give evi-"dence thereof by a Court of Justice or a Court Martial, in due course of law."

Judge Advocate's oath.

Article 110.—The Interpreter, or any other European Officer of the Court, shall then administer to the Judge Advocate, or Superintending Officer, the following affirmation or the following oath :—

"I solemnly affirm, in the presence of Almighty God, "that I will not, upon any account whatsoever, disclose or discover the vote or

"opinion of any particular member of the Court Martial, unless required to give "evidence thereof as a witness by a Court of Justice or a Court Martial, in due "course of law; and that I will not, unless it be necessary for the due discharge "of my official duties, disclose the sentence of the Court until it shall be published "by authority."

When oath is made instead of affirmation, the oath shall commence—

"I do swear that I will not, upon any account whatsoever, disclose," &c., and shall be in all other respects in the above form, and shall end with the words, "So help me God."

Oaths of Witnesses.

Article 111.—Every person giving evidence at a Court Martial shall be examined on oath, or on affirmation, where affirmation is appropriate and admissible, and shall be duly sworn or affirmed in such of the following forms as may be appropriate :—

For Europeans and persons professing the Christian religion.

"I do swear that what I shall state shall be the truth, "the whole truth, and nothing but the truth. So help me God"—

or,

"I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

For Mussulman, Hindú, or other Native Witnesses.

"I solemnly affirm, in the presence of "Almighty God, that what I shall state shall be the truth, the whole truth, and "nothing but the truth."

Oaths to be binding on conscience.

Article 112.—If none of the forms of oath or affirmation prescribed in Articles 108 to 111, both inclusive, are appropriate to any officer of a Court Martial or any witness, such officer or witness shall make oath or affirmation to the purport hereinbefore prescribed, in such form as the Court ascertains to be according to his religion or otherwise binding on his conscience.

Re-swearing in case of several trials.

Article 113.—When more trials than one are held by the same Court Martial, every officer of the Court and every witness before the Court, shall make a fresh oath or affirmation, as hereinbefore prescribed, notwithstanding any previous oath or affirmation.

Presumptive evidence of desertion.

Article 114.— If at any trial for desertion, it is proved that the person tried has been absent without authority for the space of two months, such proof shall be deemed sufficient presumptive evidence of desertion ; and the Court may thereupon convict him of desertion, unless he proves that his absence was not wilful, or otherwise rebuts the presumption of desertion arising from the proof of his unauthorized absence.

Reference by prisoner to Government Officer.

Article 115.—If at any trial for desertion, absence without leave, overstaying leave, or not rejoining when warned for service, the person tried states, in his defence, any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the Civil or Military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer, and adjourn until his reply is received.

The written reply of any officer so referred to shall, if signed by him, be received in evidence, and have the same effect as if made on oath or affirmation before the Court.

If the Court is dissolved before the receipt of such reply, or if the Court omits to comply with the provisions of this Article, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another Court Martial.

Trial for desertion.

Article 116.—On any trial for desertion the accused may be fouud guilty either of desertion or of absence without leave.

Evidence of previous convictions and general character.

Article 117.—When any person subject to these Articles has been convicted by a Court Martial of any military offence, such Court Martial shall enquire into, and receive and record evidence of any previous convictions of such person, either by a Court Martial, or by a Court of Justice; and shall further, in the case of any person below the rank of a Warrant-officer, enquire into and record the general character of such person.

Evidence received under this Article may be either oral, or in the shape of entries in, or certified extracts from, the Court Martial Books; and it shall not be necessary to prove the signature to such certified extract, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

Voting of Members.

Article 118.—The members of a Court Martial shall preserve order; and in giving their votes upon any matter, shall begin with the junior in rank.

Except where otherwise specially provided, every decision shall be passed by a majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the person tried.

In matters other than the finding or sentence, the President shall have a casting vote.

Majority requisite to sentence of Death.

Article 119.—No sentence of death shall be passed by any General Court Martial, other than a General Court Martial held under an Order in Council, unless such sentence is concurred in by at least two-thirds of the Officers composing the Court, or by five out of seven, or four out of five Officers, when the Court consists of either of those numbers.

A General Court Martial held under an Order in Council may, by the votes of a majority of such Court, pass a sentence of death.

Revision of finding or sentence.

Article 120.—The finding or sentence of any Court Martial may be revised by order of the Officer authorized to dispose of the proceedings.

But no finding or sentence of a Court Martial shall be revised more than once; nor shall any evidence, save evidence as to previous convictions or general character, be received on a revision.

The Court, on revision, shall consist of the same, and the same number of Officers as were present when the original decision was passed, unless any such Officer or Officers shall be unavoidably absent.

In case of such unavoidable absence, the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision, provided it still consists of the smallest number of Officers of which such Court is by these Articles required to consist.

Procedure to be generally followed.

Article 121.—The procedure laid down in the Articles 106 to 119 (both inclusive) shall be adopted at all trials by Courts Martial save when otherwise specially ordered or provided.

Summoning witnesses.

Article 122.—The Judge Advocate, in the case of a General Court Martial, and the Officer ordering the trial in the case of any other Court Martial may, by summons under his hand, require the attendance before the Court, at a time and place to be mentioned in the summons, of any person, either to give evidence or to produce documents.

In the case of a witness amenable to military authority, the summons shall be sent to the Officer in actual command of the corps to which he belongs, and such Officer shall serve it upon him accordingly.

In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

When a witness is required to produce any particular document in this possession or power, the summons shall describe it with convenient certainty.

Contempts of Court.

Article 123.—Any witness duly summoned, or any other person who commits any contempt of Court in the presence of a Court Martial, or who commits any of the offences described in Articles 56, 67, or 68, shall, if subject to these Articles, be proceeded against as they direct; and shall, if not so subject, be delivered over to a Magistrate, who shall proceed against the offender in the same manner as if the offence had been committed before or towards a Court of Criminal Justice.

Privilege of witness.

Article 124.—Every witness, while proceeding to, attending on, or returning from, any Court Martial before which he has been summoned, shall be privileged from arrest in any civil suit or proceeding; and if arrested in any such suit or proceeding, may be discharged by order of such Court Martial.

SUMMARY COURTS MARTIAL.

Persons to attend Summary Court Martial.

Article 125.—Every Summary Court Martial shall be attended by two Commissioned Officers, European or Native, exclusive of the Commanding Officer holding the trial.

An Interpreter shall, in every case, attend at a Summary Court Martial; but when no other competent Interpreter is available, the Officer holding the trial, or one of the Officers in attendance thereat, may perform the duty of Interpreter.

No Interpreter shall, as such, have a vote upon any matter.

Proceedings of such Courts.

Article 126.—The proceedings of every Summary Court Martial shall be conducted in presence of all Officers specified in article 125, and shall be recorded in the English language in the manner usual at other Courts Martial.

Oaths of Interpreter and Officer holding trial.

Article 127.—The Interpreter at a summary Court Martial shall first make oath or affirmation, as provided by Article 108, down to the words "published by authority"; and the Commanding Officer holding the trial shall then make oath or affirmation, as provided in Article 109, down to the words "custom of war in the like cases."

The Officers in attendance shall not as such be sworn or affirmed.

Evidence.

Article 128.—All evidence at a Summary Court Martial, shall be taken on oath or affirmation, as provided by Article 111.

Any previous convictions on record against the offender, and his general character, shall be recorded by the Commanding Officer as of his own knowledge, or proved as provided by Article 117.

Signature and transmission of proceedings.

Article 129.—The proceeding in every case in which a Regimental Court Martial or a Detachment Court Martial tries an offence not within the ordinary jurisdiction or a Regimental Court Martial, committed on the line of march or on board a vessel, shall be sent for the information of the Commander-in-Chief of the Presidency to which the Regiment or Detachment belongs, and of the Presidency within which they may be, or to which they are proceeding.

The proceedings of every Summary Court Martial shall, when closed, be signed by the Commanding Officer and the Officers attending the trial, and shall, without delay, be forwarded to the Officer Commanding the Division or District within which the trial was held; and such Officer, or the Commander-in-Chief in India, or of the Presidency in which the trial was held, is hereby authorized to set aside the trial for reasons based on the merits of the case, but not on any merely technical grounds.

When a Summary Court Martial is held in a force not attached to any Presidency, the Officer Commanding such force may exercise the powers given in this Article in regard to setting aside trials.

The proceedings of every other Court Martial shall, when closed, be signed by the members, and shall, without delay, be forwarded or delivered to the Officer under whose orders the trial has been held.

CHAPTER III.—*Sentences.*

Of General Courts Martial.

Article 130.—(*a*). Any General Court Martial may, for any offence falling under Articles 7 to 23, both inclusive, and for such offences only, sentence any person subject to its jurisdiction to death, or to transportation for life, or for any period not less than seven years, or to imprisonment (with or without hard labour, and with or without solitary confinement) for any period not exceeding fourteen years.

(*b*).—Any General Court Martial may, for any offence falling under Article 54, 55 or 56 of these Articles, sentence any person as aforesaid to the penalties attached to such offences in Article 57, and may, for any other disgraceful conduct, award the penalties attached to that offence in Articles 136, 137 and 138.

(*c*).—Any General Court Martial may, in any case where no special punishments are prescribed, or, in addition to any special punishment, where so authorized, sentence any person amenable thereto to any punishment specified in Articles 131, 132, 133, 135, 137 and 138.

(*d*).—No Court Martial, other than a General Court Martial, shall have power to award a sentence of death, transportation, or imprisonment exceeding one year.

Any General Court Martial may sentence any Commissioned Officer to be dismissed the service; or to be suspended from rank, pay and allowances for any stated period; or to be placed one or more steps lower in the list of his rank.

No Court Martial, other than a General Court Martial, shall have power to try or punish a Commissioned Officer.

Of General, District or Garrison Courts Martial.

Article 131.—Any General, District or Garrison Court Martial may sentence a Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer to be dismissed the service; or to be suspended from rank, pay and allowances for any stated period; or to be reduced to a lower grade or class in his Department, or to be placed one or more steps lower in the list of his rank.

No Court Martial inferior to a District or Garrison Court Martial shall have power to try or punish any Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer.

Reduction, Dismissal, Corporal punishment and Imprisonment.

Article 132.—Any Court Martial may sentence a Non-Commissioned Officer to be reduced to the ranks; or to be placed one or more steps lower in the list of his rank;

Or may sentence any person subject to these Articles below the rank of Warrant Officer, to be dismissed the service; or to suffer corporal punishment not exceeding fifty lashes; or to imprisonment with or without hard labour, and with or without solitary confinement, for such period as are hereinafter prescribed.

Limits of Imprisonment.

Article 133.—Except in the cases provided for in Articles 24 and 57, the limit of imprisonment, whether with or without hard labour and solitary confinement, awardable by Courts Martial under these Articles, shall be for [illegible] Court Martial two years; for District or Garrison Courts Martial on[illegible]les, may confirm Regimental or Detachment Courts Martial six months. [illegible] thereof, sentence [illegible] with or without [illegible] not exceeding

Solitary Confinement.

Article 134.—No person shall, under any such sentence, [illegible] sentences, be kept in solitary confinement more than eighty-four days [illegible] year or more than fourteen days at one time, and there shall be, betwe[illegible] periods of solitary confinement, intervals of ordinary imprisonment at least equal to th[illegible] period of solitary confinement.

Reduction to ranks.

Article 135.—No Non-Commissioned Officer shall be sentenced by any Court Martial to imprisonment or to corporal punishment, without being first sentenced to reduction to the ranks.

Forfeiture of pay and pension.

Article 136.—On a conviction of any disgraceful conduct, a General, District or Garrison Court Martial may, in addition to any other punishment which it is empowered to award, sentence the offender to forfeit all advantage as to additional

pay, good-conduct pay and claim to pension on discharge, which might otherwise have accrued from the length or nature of his former service ; or to forfeit all such advantage absolutely, whether it has accrued from former service or may accrue from future service.

Forfeiture of arrears of pay.

Article 137.—On any conviction of disgraceful conduct, if the offender be sentenced to dismissal from the service, or if his sentence involve dismissal under Article 155 or Article 157, he shall further be sentenced to forfeit any arrears of pay and allowances, or other public money, due to him at the time of his dismissal, or such portion thereof as may be required to make good any proved loss or damage arising out of his disgraceful conduct.

Any Court Martial may, in addition to dismissal, or to any punishment involving dismissal under Article 157, sentence any person whom it is authorized to try, to forfeit any arrears of pay and allowances, or other public money, due to him at the time of his dismissal, or such portion thereof as may be required to make good any proved loss or damage arising out of his misconduct.

Stoppages.

Article 138.—Every offender convicted of disgraceful conduct, whose dismissal from the service is not so awarded or involved as aforesaid, shall, in addition to any other punishment, be sentenced by the Court to be put under stoppages, to the extent provided by Article 139, until the amount of any proved loss or damage arising out of such conduct be made good.

And any Court Martial, in addition to any punishment other than, or not involving, dismissal, may sentence any person as aforesaid to be put under stoppages to the extent specified in Article 139, until any proved loss or damage arising out of his misconduct be made good.

Extent of Stoppages.

Article 139.—Stoppages under Article 138 shall not be awarded, whether under one or more than one sentence, to a greater extent than, in the case of an Officer, two-thirds, or in the case of any other person, one-half of his monthly pay and allowances ; and shall not be so awarded as to extend beyond one year.

Any public money issued to the offender within the said period of one year, shall, for the purposes of this Article, be deemed to be pay and allowances.

Sentence of Transportation of Imprisonment on person already sentenced.

Article 140.—Whenever a sentence of transportation or imprisonment is passed by any Court Martial upon an offender already under sentence of transportation for a limited term, or of imprisonment, the Court may award transportation or imprisonment to commence on the expiration of such previous sentence ; notwithstanding that the aggregate of any terms of imprisonment may thus exceed the limit of imprisonment which such Court is by these Articles empowered to award.

Form of sentence of death.

Article 141.—In awarding a sentence of death, a General Court Martial shall, [illegible]irect that the offender shall " suffer death by being hanged by the [illegible]ead," or shall " suffer death by being shot to death."

[illegible]ER IV.—CONFIRMATION AND COMMUTATION OF SENTENCES.

Sentences to be confirmed of otherwise disposed of.

A[illegible]2.—Save in the case of a Summary Court Martial, no decision or [illegible]tence [illegible]y Court Martial shall be carried into effect until confirmed or otherwise disposed of by—

(a.)—In the case of any Court Martial for the trial of any person within his [illegible]mmand—the Commander-in-Chief of a Presidency : or

(b.)—In the case of any Court Martial for the trial of any person under his [illegible]ommand—any Officer authorized in this behalf by warrant of the Commander-in-Chief of any Presidency, but subject to any restrictions contained in the warrant : or

(c.)—In the case of any Court Martial for the trial of any person under his command—any Officer in actual command of troops who is authorized in this behalf by the Governor-General of India in Council, the Governor of Fort Saint George in Council, or the Governor of Bombay in Council :

(d.)—In the case of any Court Martial for the trial of any person under his command—any Officer commanding Native troops not attached to the forces of a

Presidency who is authorized in this behalf by warrant of the Commander-in-Chief in India :

(*e*).—In the case of a Detachment General Court Martial held beyond the limits of British India, and not within the dominions of the Princes and States of India in alliance with Her Majesty—the Officer appointing such Court Martial, unless the sentence of such Court Martial exceeds that awardable by a District or Garrison Court Martial, in which case the Commander of Her Majesty's forces with which the offender is serving, shall alone have power to confirm, remit, commute or annul such sentence :

(*f*).—In the case of a Regimental Court Martial for the trial of any person under his command—the Officer appointing such Court Martial :

(*g*).—In the case of a Regimental or other Detachment Court Martial for the trial of any person under his command, where the detachment consists of, or is equal in strength to, three troops or companies—the Commanding Officer :

(*h*).—But when any such Court Martial is held in a Detachment of less than, or not equal in strength to, three troops or companies, the sentence shall be submitted for confirmation to the Officer Commanding the prisoner's Regiment, or to the nearest superior Officer holding a command of not less than a Regiment, who is hereby empowered to dispose of such sentence in like manner as if the trial had been held by his own order :

Provided that in detached situations beyond sea, or out of British India, or on service in the field, or in cases where immediate example is necessary and reference cannot be made to such Regimental or other superior Commanding Officer without detriment to the service, the Officer Commanding any Detachment, whatever its strength, may dispose of and carry out the sentence of any Detachment Court Martial held by his order.

(*i*).—Any Commander-in-Chief or Officer mentioned in clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*) and (*g*) of this Article may, subject to the provisions of these Articles, and to the restrictions (if any) in the warrant (if any) by which he is authorized in this behalf, mitigate, remit, commute or annul any sentence to the execution of which his confirmation is necessary.

Sentence of death.

Article 143.—When a sentence of death has been passed by any General Court Martial, the Officer so authorized, in accordance with these Articles, may confirm such sentence and cause it to be carried into effect, or may, in lieu thereof, sentence the offender to transportation for life, or for any term not less than seven years, or to imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years.

Sentence of penal servitude or transportation.

Article 144.—Notwithstanding anything hereinbefore contained, whenever any person, being an European or American or a legitimate lineal descendant of an European or American, is convicted of an offence punishable under these Articles with transportation, the Court shall sentence the offender to penal servitude instead of transportation, according to the provisions of Act No. XXIV of 1855.

When a sentence of transportation has been awarded by any General Court Martial, the Officer authorized, in accordance with these Articles, may confirm the sentence and cause it to be carried into effect, or may, in lieu thereof, sentence the offender to imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years, and not exceeding the term of transportation awarded by the Court.

Sentence of dismissal on Commissioned Officers, &c.

Article 145.—A sentence of dismissal from the service passed by any Court Martial under these Articles upon a Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer, may be commuted by the Officer duly authorized to confirm or otherwise dispose of such sentence, to suspension from rank, pay and allowances for any stated period.

Any sentence on Commissioned Officers, &c.

Article 146.—Except on foreign service, or when reference cannot, without detriment to discipline, be made to superior military authority, no decision or sentence passed upon any Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer, shall be carried into effect until confirmed or otherwise disposed of by the Commander-in-Chief of the Presidency to which the offender belongs, or, when the offender is serving in a Presidency, by

the Commander-in-Chief of such Presidency, or, when the offender belongs to a force not attached to any Presidency, by the Officer Commanding the force.

Sentence of corporal punishment.

Article 147.—A sentence of corporal punishment passed by any Court Martial may be commuted, by the Officer authorized to confirm or otherwise dispose of such sentence, to dismissal from the service, or to imprisonment without hard labour, and with or without solitary confinement, for any period not exceeding one year, which might have been awarded by such Court Martial.

Sentence of imprisonment with hard labour.

Article 148.—A sentence of imprisonment with hard labour passed by any Court Martial may be commuted, by the Officer authorized to confirm or otherwise dispose of such sentence, to dismissal from the service, or to imprisonment without hard labour, and with or without solitary confinement, for the term mentioned in the sentence, or for any shorter term.

Sentence of reduction with corporal punishment or imprisonment.

Article 149.—The Officer duly authorized to confirm or otherwise dispose of the sentence of any Court Martial may, in the case of a Non-Commissioned Officer sentenced by any such Court, mitigate a sentence of reduction to the ranks followed by corporal punishment or imprisonment to reduction only.

Commutation of sentence of dismissal on Non-Commissioned Officers.

or may commute a sentence of dismissal from the service to reduction to the ranks.

CHAPTER V.—EXECUTION OF SENTENCES.

Transportation.

Article 150.—Whenever the sentence of a General Court Martial awarding transportation is duly confirmed, or whenever a sentence of death is duly commuted to transportation, the offender shall be delivered over with a warrant of commitment, containing an authenticated copy of the sentence or commuted sentence, to the Officer in charge of the nearest jail ; and such Officer shall give effect to the sentence accordingly, under such order as he may receive from the Local Government.

Imprisonment with hard labour.

Article 151.—Whenever the duly confirmed sentence of any Court Martial awards imprisonment with hard labour, or whenever the sentence of any Court Martial is duly commuted to such imprisonment, the offender shall be delivered over with a warrant of commitment, containing an authenticated copy of the said sentence or commuted sentence, to the Officer in charge of the nearest jail ; and such Officer shall detain the offender, under the rules in force, in such jail, according to the exigency of the warrant, or until he is discharged by due course of law.

Place of imprisonment.

Article 152.—The Commander-in-Chief of a Presidency may, as occasion requires, direct that any person under his command and sentenced under these Articles to imprisonment, shall be confined in any jail or other fit place for confinement, situate within the local limits of such command, or may order his removal from any place of confinement under military control to any other such place, or to any jail or other fit place of confinement situate within such local limits.

The Officer Commanding any force not attached to any Presidency, shall have the like powers so far as regards persons under his command and jails or other places of confinement situate within the local limits of such command.

Transfer to military custody.

Article 153.—When any person subject to these Articles is confined in any jail or other place not subject to military control, under a sentence of transportation or imprisonment, whether passed by a Court Martial or by a Court of Criminal Justice, the Government of India, or the Local Government of the Presidency or place wherein such person is confined, may order his transfer to military custody, or may order his removal from one to any other such place of confinement within the territories of such Government.

The period during which such person is in custody during his removal shall be reckoned as part of his term of transportation or imprisonment.

Forfeiture of pay during imprisonment.

Article 154.—Any person subject to these Articles in receipt of public pay, who is imprisoned in any place under the sentence, or commuted sentence, of a Court Martial, or a Court of Criminal Justice, shall, during such imprisonment, if his sentence does not involve dismissal under Article 155 or Article 157, forfeit all pay and allowances, and be entitled to subsistence only, according to the rates prescribed in the regulations of the Government to which he is subject.

And any such person in confinement in any place whatsoever, whether as a punishment by his Commanding Officer, or under any charge of which he is subsequently convicted, shall, during such confinement, forfeit all pay and allowances, and be entitled to subsistence only, according to the regulations of the Government to which he is subject.

Striking Convict off strength of Regiment.

Article 155.—Every person sentenced by any Court Martial, or by any Court exercising jurisdiction in criminal cases, to transportation or to imprisonment with hard labour for any term exceeding three months, shall, in the case of a sentence by a Court Martial, from the date of confirmation of such sentence, and in the case of a sentence by a Criminal Court, from the date of such sentence, be struck off the strength of the regiment, corps or department to which he belongs.

Non-readmission of Convict.

Article 156.—No person who has undergone any such period of transportation or imprisonment with hard labour, shall be re-admitted to the service, or be entitled to any pension :

Provided that in the case of any illegal sentence duly annulled as aforesaid, or of a pardon under Article 160, such person may, by order of the Government when the offence is non-military, or by order of the Commander-in-Chief of the Presidency when the offence is military, be re-admitted to service, or pension, as the case may be.

Dismissal with ignominy.

Article 157.—Any person below the rank of Warrant Officer sentenced under these Articles to dismissal, or to imprisonment with hard labour, or to corporal punishment for disgraceful conduct, shall, on the confirmation of such sentence, be dismissed with ignominy from the service.

Publication of sentence for disgraceful conduct.

Article 158.—A copy of every confirmed sentence of dismissal, imprisonment with hard labour, or corporal punishment for disgraceful conduct, and of the orders passed thereupon, shall be sent by the Adjutant General of the Army to the Chief Civil or Political Officer of the District wherein the offender's place of residence is situated ; and such Officer shall publish the sentence and orders at the said place in such manner as may there be usual.

Sentences of Summary Courts Martial.

Avticle 159.—Any sentence awarded by a Summary Court Martial may be carried into effect forthwith on the Commanding Officer's own authority, and all provisions contained in Articles 151, 152, 153, 154, 155, 156, 157, 158, 160 and 161 as to execution of sentences and disposal of prisoners, shall equally apply to persons sentenced by Summary Court Martial.

CHAPTER VI.—PARDONS AND REMISSIONS.

Pardon of person convicted of military offence.

Article 160.—The Governor-General of India in Council, as regards any person subject to these Articles who has been convicted by a Court Martial of a military offence, and the Governors of Fort St. George in Council, and of Bombay in Council, and the Commander-in-Chief of any Presidency, as regards any such person within the the territories subject to such Government, or under the command of such Commander-in-Chief, shall have power to pardon such person, and may, instead of granting a full pardon to any such person, remit wholly or in part any punishment awarded to him by a Court Martial,

and may order the restoration to such person of any service or other advantage forfeited under his sentence.

Release of prisoners.

Article 161.—Any Officer in charge of a jail, on receiving a notification under the hand of a Secretary to the Government of India, or to the Government of Fort St. George, or to the Government of Bombay, or under the hand of the Commander-in-Chief of any Presidency, or of the Officer Commanding any force not attached to a Presidency, or any Division or District, that the sentence under which any person subject to these Articles is imprisoned in such jail, has been annulled or remitted, or that any such person has been pardoned under Article 160, shall, on the authority of such notification alone, immediately release the prisoner or return him to military custody.

CHAPTER VII.—*Regimental Courts of Enquiry.*

Article 162.—If any person subject to these Articles is, without due authority, absent from his duty for two months, a Regimental Court of Enquiry, composed of European or Native Commissioned Officers, or of both in conjunction, shall forthwith assemble, and having received proof on oath or affirmation of the unauthorized absence, shall declare the same, and the period thereof; and the Officer Commanding the Regiment or Corps shall record such declaration in the regimental books.

If the person absent does not afterwards surrender or is not apprehended, such record shall have the legal effect of a conviction of desertion.

If he surrenders or is apprehended, such record, or a copy thereof, purporting to bear the signature of the Officer having the custody of the regimental books shall, on the trial of such person for desertion, be presumptive evidence of the facts therein recorded; and on proof of the identity of the prisoner with the person therein-mentioned, he may be found guilty of desertion.

Persons absent as Prisoners of War.

Article 163.—No person subject to these Articles shall be entitled to any pay or allowances or other public money, or to reckon service during any absence as a prisoner of war.

But when such person rejoins the service, enquiry shall be made by a Court Martial into the circumstances of his absence; and unless it is proved to the satisfaction of such Court that he was taken prisoner through his own wilful neglect of duty, or that he had served with or under, or aided the enemy, or that he had not, as soon as possible, returned to the service, he may be recommended by the Court to receive either the whole or any portion of the arrears due to him, and to reckon his service.

Such recommedation duly confirmed by the Commander-in-Chief of the Presidency, or by the Officer Commanding any force not attached to a Presidency, to which the said person belongs, shall entitle him to receive such arrears and reckon service accordingly.

TITLE IV.—POWERS OF OFFICERS INDEPENDENTLY OF TRIAL.

Reduction to ranks.

Article 164.—The Commander-in-Chief of a Presidency, and the Officer Commanding any force not attached to a Presidency, shall have, respectively, power to reduce to the ranks Non-Commissioned Officers under their respective command.

Minor Punishments.

Article 165.—The Commander-in-Chief in India shall, under the authority of the Governor-General in Council, prescribe the minor punishments to which persons subject to these Articles shall for light offences be liable, without the intervention of a Court Martial, and shall specify the Officer or Officers by whom, and the extent to which, such minor punishments may be awarded.

No such minor punishment shall be awarded by a Court Martial; and, unless otherwise specially provided by the said Commissioner-in-Chief, no Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer, shall be liable to any such minor punishment.

Good-conduct pay shall not necessarily be forfeited on the infliction of a minor punishment, but forfeiture thereof may be awarded as a substantive punishment, either by order of the Commanding Officer by sentence of a Court Martial, as may from time to time be prescribed in the General Orders of the Commander-in-Chief in India or of the Commander-in-Chief of the Presidency, as the case may be.

Whenever a Soldier is convicted by a Court Martial, his good-conduct pay shall cease.

Forfeiture of good-conduct pay may be awarded in addition to any other minor punishment.

Offences of Native Followers.

Article 166.—For any offence in breach of good order, the Commanding Officer of any regiment, corps or detachment, whether European or Native, in camp, or at any frontier post at which troops are stationed, and to which this Article may be specially extended by the Governor-General of India in Council, the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other Local Government, may sentence any Native follower of such regiment, corps or detachment, if above the degree of a menial servant, to pay a fine not exceeding fifty rupees, or, in default of payment, or in lieu thereof, to imprisonment for any period not exceeding thirty days; or if the Native follower be not above the degree of a menial servant, to imprisonment not exceeding seven days, or to corporal punishment not exceeding twelve strokes of a rattan.

Imprisonment awarded under this Article may be carried out in a military guard, or in a jail, as ordered by the said Commanding Officer; and the Officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said Commanding Officer, detain the offender according to the exigency of the warrant, or until he is discharged by due course of law.

Complaints against Officers.

Article 167.—Any person subject to these Articles, who deems himself wronged by any superior or other Officer, may, if not attached to a troop or company, complain to the Officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the Officer Commanding the same.

When the Officer complained against is the Officer to whom any other complaint should, under this Article, be preferred, the aggrieved person shall complain to such Officer's next superior Officer.

No such complaint shall be made to any Officer other than those indicated in the former part of this Article.

Every Officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

Every such complaint shall be preferred through such channels as may be from time to time prescribed by proper authority; and any person preferring a frivolous or groundless complaint shall be liable to trial by any Court Martial competent to try him, and to such punishment, other than dismissal, corporal punishment, or imprisonment with hard labour, as the Court is empowered by these Articles to award.

Provost Marshals.

Article 168.—For the prompt and instant repression of irregularities and offences committed in the field or on the line of march, Provost Marshals shall be appointed by the Commander-in-Chief of the Presidency, or the Officer Commanding the Forces in the field; and the powers and duties of such Provost Marshals shall be regulated according to the established custom of war and the rules of the service.

Their duties and powers.

Article 169.—The duties of a Provost Marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve [illegible] and discipline, and to prevent breaches of the same by persons belonging or [illegible] to the Army.

The Provost Marshal may punish, corporally, then and there, any person amenable to these Articles below the rank of Warrant Officer, who, in his view or in the view of any of his assistants, commits any breach of good order and military discipline:

Provided that such punishment shall be limited to the necessity of the case, and shall accord with the order which the Provost Marshal may from time to time receive from the Officer Commanding the troops:

Provided also that the orders of the said Commanding Officer shall in no case authorize such corporal punishment in excess of that awardable by sentence of a Court Martial.

If the actual commission of the offence is not witnessed by the Provost Marshal, or any of his assistants, but sufficient proof can be obtained of the offender's guilt, he shall report the case to the Commander of the Troops, who shall deal with the case as he may deem most conducive to the maintenance of good order and military discipline.

TITLE V.—NON-MILITARY OFFENCES.

Offences committed within jurisdiction of Criminal Court.

Article 170.—Any person subject to these Articles, who, at any place in British India within the jurisdiction of any Court of Criminal Justice established by Her Majesty, or by the Government of India, or by the Local Government, is accused of any offence against the Indian Penal Code, and not included in the foregoing Articles, shall be delivered over to the nearest Magistrate to be proceeded against according to law.

All persons in, or attached to, the Army, are hereby required, upon application duly made to them for that purpose, to assist the Officers of Justice in apprehending and securing any such accused person.

Any person in, or attached to, the Army, wilfully neglecting or refusing so to assist shall be punished with any punishment, other than death or transportation, awardable under these Articles.

Offences committed out of British India.

Article 171.—In any place out of British India, offences against the Indian Penal Code, and not included in the foregoing Articles shall, when committed by any person amenable to these Articles, be cognizable by a General Court Martial to be convened by any Officer who is empowered by warrant, or Order in Council, or by Article 77, to appoint General Courts Martial.

General Court Martial for trial of such offences.

Article 172.—The provisions of these Articles as to the composition and procedure of General Courts Martial, shall, with the exception of those contained in Article 117, apply to General Courts Martial for the trial of non-military offences :

Provided that such General Courts Martial shall, in every case, be attended by a Judge Advocate.

Sentences of such Court.

Article 173.—A General Court Martial held for the trial of a non-military offence, shall, on the conviction of any offender, award punishment in accordance with the provisions of the Indian Penal Code.

Confirmation of sentences.

Article 174.—No decision or sentence passed by any such General Court Martial shall be carried into effect until confirmed or otherwise disposed of by the authority which, under these Articles, is empowered to confirm or otherwise dispose of the sentence of such General Court Martial ; and no sentence of death shall be carried into effect until confirmed by the Commander-in Chief of the Presidency to which the offender belongs, or, when the offender is beyond the limits of British India, until confirmed by the Officer Commanding Her Majesty's Forces with which the offender is serving, or when the offender does not belong to any Presidency, until confirmed by the Commander-in-Chief in India.

Commutation of sentences.

Prisoners.

Article 175.—All the provisions contained in Articles 143, 144, 148, 150, 151, [illegible] 154, 155, 156 and 161, relating to the disposal of sentences and of sen[illegible] prisoners, shall apply to persons sentenced by a General Court Martial for [illegible]on-military offence.

TITLE VI.—EFFECTS OF DECEASED MEN AND OF DESERTERS.

Article 176.—When any person subject to these Articles dies, or is killed in the field, the Officer Commanding the regiment, corps or detachment, or the Officer in charge of the department to which such person belonged, shall, if no representative in interest of such person be on the spot, secure his effects in camp or quarters, and cause an inventory thereof to be made, and a duplicate of such inventory to be lodged with the Officer Commanding, or in charge of, the regiment, corps, detachment or department to which the deceased belonged.

Sale of effects and discharge of debts.

Article 177.—If there be no representative on the spot, or readily accessible, such Officer shall, without any representation taken out, publicly sell such part of the effects of the deceased in camp or quarters as do not consist of money,

and shall pay thereout the debts of the deceased in camp or quarters, the expense of his funeral ceremonies, and his regimental debts of every description; and shall pay the surplus (if any) to the representative in interest of the deceased.

Remittal of Surplus.

Article 178.—In the event of no claim for the surplus of the deceased person's estate being made and established within twelve months of his death, the amount in the hands of the Officer in charge of the estate shall be remitted to the Controller General of Accounts at Calcutta, or to the Accountant-General to the Government of Fort St. George or of Bombay; or, if the deceased shall have belonged to a force not under any Presidency, to the Controller General of Accounts at Calcutta.

Sale of effects of Deserters.

Article 179.—The effects in camp or quarters of a deserter shall be publicly sold, and the proceeds, after payment thereout of all regimental or departmental claims, shall be remitted by the Officer Commanding, or in charge of, the regiment, corps, detachment or department to which the deserter belongs, to the Controller General of Accounts at Calcutta, or to the Accountant General to the Government of Fort St. George or of Bombay.

Remittal of proceeds.

If the deserter belongs to a force not attached to any Presidency, then the said proceeds shall be remitted to the Controller General of Accounts at Calcutta.

PART III.—MISCELLANEOUS.

Prohibition of Second Trial.

(*a*).—Persons subject to the Articles contained in Part II of this Act, who have been acquitted or convicted, either by a Court Martial or by a Court of Criminal Justice, of any offence, whether military or non-military, shall not be again tried or punished for the same offence by any Court whatsoever.

But any such person may be dismissed the service.

Prohibition of Arrest for Debt.

(*b*).—No person attested under this Act or any previous Articles of War for Her Majesty's Indian Army, shall, so long as he belongs to such Army, be liable to be arrested for debt under any process issued by, or by the authority of, any Court of Law.

The Judge of any such Court may examine into any complaint made by such person or his superior Officer, of the arrest of such person contrary to the intent of this Act, and may by warrant under his hand discharge such person, and shall award reasonable costs to the complainant, who may recover such costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining such process.

The arms, horse, clothes, equipments, regimental accoutrements and necessaries of any such attested person shall not be seized, nor shall his pay and allowances or any part thereof be attached, in satisfaction of any judgment against him or any person whom he may represent.

Breach of Cantonment Rules.

(*c*).—When any offence in breach of any duly authorized Cantonment rule or regulation is committed by any person not subject to the said Articles, and not an European British subject or an Officer or Soldier, the Officer Commanding the Cantonment may, where there is no Cantonment Magistrate, summon or order the apprehension of the offender; and such Officer may (after personally investigating the case) sentence the offender to pay a fine not exceeding fifty rupees; or in default of payment of, or in lieu of, such fine, to imprisonment in any jail or military guard for a period not exceeding thirty days.

The Officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said Commanding Officer, detain the offender according to the exigency of the warrant, or until he is discharged by due course of law.

Capture of Deserters.

(*d*).—Whenever any person subject to the said Articles deserts, the Commanding Officer of the regiment, corps or detachment to which he belongs, shall give written information of the desertion to such Civil, Political, or Police authorities

as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter, in like manner as if he were a person for whose capture a warrant had been issued by a Magistrate, and shall deliver the deserter when apprehended to military custody.

Such authorities shall also, by such means as appear to them best adapted for the purpose, prevent persons reasonably suspected to be subject to the said Articles from travelling through the districts subject to their jurisdiction, unless on duty, or furnished with a certificate of leave or discharge.

Any Police Officer may arrest, without warrant, any person so suspected, and shall bring him without delay before the nearest Magistrate, or the nearest Military Commanding Officer when no Magistrate is readily accessible, to be dealt with according to law.

Apprehension of Military Offenders.

(*e*).—Whenever any person subject to the said Articles, who is accused of any military offence, is within the jurisdiction of any Civil, Political, or Police Officer, such Officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect, signed by his Commanding Officer.

Presumption as to signatures.

(*f*).—In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an Officer in the civil or military service of Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Native Troops serving out of their own Presidency.

(*g*).—When any portion of the Native troops belonging to any Presidency is serving within the limits of any other Presidency, such troops shall, during such service, for all the purposes of the said Articles, be under the authority and orders of the Commander-in-Chief of the Presidency in which they are serving:

Provided that it shall be lawful for the Governor-General of India in Council to direct that, for the purposes of the said Articles, Native troops serving out of their own Presidency shall continue subject to the authority and orders of the Commander-in-Chief of the Presidency to which such troops belong.

Power to make Orders and issue Warrants.

(*h*).—The Governor-General of India in Council,
The Governors of Fort St. George and Bombay in Council,
The Commander-in-Chief of any Presidency,
may respectively make all orders and issue all warrants for holding Courts Martial or otherwise, which appear necessary for the purposes of this Act; and in the case of military offences requiring to be disposed of without delay, the Governor-General of India in Council, and the Governors of Fort St. George and Bombay in Council may respectively further authorize any Officer empowered by Order in Council to confirm, commute, remit or annul sentences in such cases, to refer such sentences for orders to the Commander-in-Chief of the Presidency.

Limitation of Powers.

(*i*).—Nothing hereinbefore contained shall empower the Commander-in-Chief of a Presidency to re-admit to service or pension any person not within his command, or to authorize any Officer to appoint, or to confirm, commute, remit or annul the sentences of Courts Martial for the trial of any person not within the command of such Commander-in-Chief, except in the case specified in the proviso in clause (*g*) of this Part,

or shall empower any Government to give directions as to the composition of, or to authorize the appointment of, Courts Martial in any place for the time being subject to any other Government.

Nothing in this Act shall be deemed to affect the authority conferred on the Commander-in-Chief in India by any Act of Parliament or by Royal warrant or commission.

Power to make Rules.

(*j*).—It shall be lawful for the Governor-General of India in Council from time to time to make rules consistent with this Act, for the guidance of Officers, whether Military, Civil, or Political, in all matters connected with its enforcement.

All such rules shall be published in the *Gazette of India*, and shall thereupon be deemed to have the force of law.

The Commander-in-Chief in India, as regards the Presidency of Fort William and Forces not attached to any Presidency, may, with the previous sanction of the Governor-General of India in Council, and the Commanders-in-Chief of the presidencies of Fort Saint George and Bombay, as regards their respective Presidencies, may, with the previous sanction of the Local Government, from time to time substitute for the forms of affirmation given in Articles 109 and 111 as appropriate to Native Officers and witnesses, such other forms as may be thought appropriate to Native Officers and witnesses of any religion.

Articles to be read periodically.

(*k*).—The following Articles, namely, Articles 3, 4, 5, 7 to 71, both inclusive, 90, 91, 92, 93, 94, 125, 126, 130, 131, 132, 133, 135, 136, 137, 138, 139, 154, 167 and 176, shall be read once in every three months at the head of every regiment, corps, troop, or company in the service.

APPENDIX.

PART I.—DEFINITIONS IN THE INDIAN PENAL CODE.

[See PART I, CLAUSE (*e*).]

Wrongful gain.

23. "Wrongful gain" is gain, by unlawful means, of property to which the person gaining is not legally entitled.

Wrongful loss.

"Wrongful loss" is the loss, by unlawful means, of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

Dishonestly.

24. Whoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

Fraudulently.

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

Reason to believe.

26. A person is said to have "reason believe" a thing, if he has sufficient cause to believe that thing, but not otherwise.

OF HURT.

Hurt.

319. Whoever causes bodily pain, disease, or infirmity to any per[illegible] cause hurt.

Grievous Hurt.

320. The following kinds of hurt only are designated as "grievous":—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing grievous hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause, or knows himself to be likely to cause, is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending, or knowing himself to be likely, permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days; A has voluntarily caused grievous hurt.

OF CRIMINAL FORCE AND ASSAULT.

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change, or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal Force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(*a*). Z is sitting in a moored boat on a river. A unfastens the moorings, [illegible] intentionally causes the boat to drift down the stream. Here A inten[illegible] motion [illegible] Z, and he does this by disposing substances in such a [illegible] that the motion is produced without any other act on any person's part. A [illegible] therefore intentionally used force to Z; and if he has done so without Z's consent, [illegible] order to the committing of any offence, or intending or knowing it to be likely [illegible] this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*b*). Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(*c*). Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(*d*). A intentionally pushes against Z in the street. Here A has, by his own bodily power, moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used Criminal force to Z.

(*e*). A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes, or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(*f*). A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g*). Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling; A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force.

(*h*). A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(*a*). A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b*). A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c*). A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving, effected by the same act which effects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(*a*). A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

(*b*). A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c*). A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(*d*). A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent, A has committed theft.

(*e*). Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f*). A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g*). A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(*h*). A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling is when the loss is forgotten. Here A, at the time of first moving the ring, commits theft

(*i*). A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j*). If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k*). Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l*). A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z, as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(*m*). A, being on friendly terms with Z, goes into Z's library in Z's absence and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n*). A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o*). A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p*). A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

OF EXTORTION.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion."

Illustrations.

(*a*). A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b*). A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(*c*). A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(*d*). A by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

II.—Indian Penal Code, Chapter V.

Of Abetment.

Sections 107 and 108.

(See *Article* 71.)

Abetment of a thing.

107. A person abets the doing of a thing who—

First.—Instigates any person to do that thing ; or,

Secondly.— Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing ; or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact, and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by a law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(*a*). A instigates B to murder C. B refuses to do so, A is guilty of abetting B to commit murder.

(*b*). A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(*a*). A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(*b*). A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(*c*). A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(*d*). A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

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ACT No. VI OF 1869.

(*Received the assent of the Governor-General on the 5th March* 1869.)

An Act to amend the Law relating to the Emigration of Native Labourers.

1. *Probable length of winter voyage from Madras to Reunion or Mauritius.*
2. *Licensing of recruiters.* 24. *Persons to license recruiters.*
3. *Refund of fee for emigration.* 31. *Fee for emigration.*
4. *Time of sailing for places west of Cape.*
5. *Increase of space allowed to adult emigrants.*
6. *Power to prohibit emigration.*
7. *Power to relax rule as to proportion of women.*
8. "*Magistrate of the District.*"
9. *Power to increase fees.*
10. *Repeal of Act XIII of* 1864, *sections* 55, 56, 57, 80.
11. *Indemnification. Commencement of Act.*

Preamble.

WHEREAS it is expedient to amend the law relating to the emigration of Native Labourers; It is hereby enacted as follows:—

Probable length of winter voyage from Madras to Reunion or Mauritius.

I. The probable length of the voyage from Madras to Reunion, Mauritius, or Seychelles shall, notwithstanding anything contained in Act No. XLVI of 1860 (*to authorize and regulate the emigration of Native Labourers to the French Colonies*) or Act No. XIII of 1864 (*to consolidate and amend the law relating to the emigration of Native Labourers*), section eight, be deemed to be, between the months of November and March inclusive, six weeks.

Licensing of recruiters.

II. For section 24 of the said Act No. XIII of 1864 the following shall be substituted:—

Persons to license recruiters.

"24. The protector of emigrants at each of the three ports aforesaid and the British consular agent at each of the French Ports in India, shall license so many fit persons as shall to him seem necessary to be recruiters of labourers, and no person shall act or be employed as a recruiter of labourers except under a license from such Protector of Emigrants or British consular agent."

Refund of fee for emigration.

III. For section 31 of the said Act No. XIII of 1864 the following shall be substituted:—

Fee for emigration.

"31. For the registration of every emigrant, the recruiter shall pay to the Magistrate a fee of one rupee. On proof of the desertion of any emigrant before embarkation, the fee paid in respect of such emigrant may be refunded by the Magistrate to the recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council."

Time of sailing for places west of Cape.

IV. Notwithstanding anything contained in the same Act, section forty-five, the Local Government may, in cases of emergency, permit emigrants for any place west of the Cape of Good Hope to leave the port of Calcutta between the thirty-first day of July and the first day of April.

Increase of space allowed to adult emigrants.

V. Notwithstanding anything contained in the same Act, section forty-seven, no compartment in an emigrant ship shall take more than one adult emigrant for every twelve superficial feet on deck, and for every cubic space of seventy-two feet, or more than one child who shall have completed two and shall not have completed ten years of age for every eight superficial feet on deck.

Power to prohibit emigration.

VI. Whenever the Governor-General of India in Council or the Local Government has reason to believe that in any place to which emigration is lawful, the plague or other infectious disease dangerous to human life has broken out,

or that proper measures have not been taken for the protection of emigrants immediately upon their arrival in such place or during their residence therein,

or for their safe return to India,

or to provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage,

the said Governor General in Council or the Local Government may, by notification published in the *Gazette of India* or the local Gazette (as the case may be), declare that emigration from British India or from the territories subject to the Local Government (as the case may be) to such place shall cease and be prohibited from a certain day to be specified in the notification.

Any notification issued by the Local Government under this section may be cancelled by order of the said Governor General in Council.

Power to relax rule as to proportion of women.

VII. Notwithstanding anything contained in the said Act. No. XIII of 1864, section sixty-three, or in any rules made or to be made by the Governor General of India in Council pursuant thereto, the Local Government may, in cases of emergency, permit any vessel carrying emigrants to leave the port of Calcutta, although the proportion of women embarked on board such vessel is not in accordance with the said rules.

"Magistrate of the District."

VIII. The third clause of section two of the same Act is hereby repealed, and the phrases "Magistrate of such District" and "Magistrate of the District," wherever they occur in such Act, shall be held to mean any officer exercising in such District the full powers of a Magistrate.

Power to increase fees.

IX. The Governor General of India in Council may, from time to time by notification in the *Gazette of India*, increase any fee payable under sections nineteen, twenty-seven and thirty-four of the said Act No. XIII of 1864, and may also in like manner reduce to its present amount any fee so increased; Provided that no fee shall be increased under this section by more than double such amount.

Repeal of Act XIII of 1864, sections 55, 56, 57, 80.

X. Sections fifty-five, fifty-six, fifty-seven and eighty of the said Act No. XIII of 1864, are hereby repealed.

Indemnification.

XI. All person are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been in force; and no suit or other proceeding shall be maintained against any such person in respect of anything so done.

Commencement of Act.

This section shall come into operation at once: section 2 shall be deemed to have come into operation on the eighteenth day of March 1864; and the rest of this Act shall come into operation on the first day of May 1869.

ACT No. VII OF 1869.

(*Received the assent of the Governor-General on the* 12*th March* 1869.)

An Act to give validity to certain Rules relating to Forests in British Burma.

1. *Validation of Burma Forest Rules.*
2. *Indemnification of officers.*

Preamble.

WHEREAS certain Rules for the better management and preservation of the Government Forests in British Burma, dated the second day of August 1865, were framed under Act No. VII of 1865 (*to give effect to Rules for the management and preservation of Government Forests*), and were confirmed by the Governor-General of India in Council and published in the *Gazette of India* dated the twelfth day of August 1865; and whereas certain of the said Rules relate to timber not the produce of such forests, and it is expedient to validate such Rules and to indemnify the officers and other persons who have acted under them; It is hereby enacted as follows:—

Validation of Burma Forest Rules.

I. The Rules for the better management and preservation of the Government Forests in British Burma, dated the second day of August 1865 shall, from such day down to the passing of this Act, be deemed to have had the force of law as regards all timber to which they purport to relate, and shall continue in force until the said Governor-General in Council shall otherwise order.

Indemnification of officers.

II. All officers and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been in force; and no suit or other proceeding shall be maintained against any such officer or other person in respect of anything so done.

ACT No. VIII OF 1869.

(*Received the assent of the Governor-General on the 12th March 1869.*)

An Act further to amend the Code of Criminal Procedure.

1. *Short title.*
2. *Repeal of Acts. Repeal of schedule.*
3. *Amendment of certain sections of Code of Criminal Procedure.*
4. *New sections.*
23*A*. *Local Government may delegate its power of appointing Magistrates.*
23*B*. *Succession to vacancies in the office of the Magistrate of a District.*
23*C*. *Power to determine local jurisdiction of a Magistrate of a District.*
23*D*. *Power to appoint Magistrates in charge of Divisions of Districts.*
23*E*. *Continuance of powers of officers transferred.*
23*F*. *Powers may be varied or cancelled.*
23*G*. *Subordination of all Magistrates to the Magistrate of the District.*
23*H*. *Delegation of certain powers of the Magistrate of a District.*
31*A*. *Concealment, &c., of kidnapped person.*
36. *Magistrate may withdraw any case from a subordinate Court, and try it himself or refer it to any other such Court.*
40*A*. *Certain Subordinate Magistrates not to hear complaints against European British subjects.*
44. *Court may apply portion of fine in compensation for loss or damage.*
49*A*. *Power conferred under section 49 of the Code may be exercised by Inspector General of Jails.*
61. *Levy of fine.*
66*A*. *Local Government to define what Magistrates and Subordinate Magistrates shall be empowered to entertain complaints preferred directly to themselves or onre port of Police officer.*
66*B*. *Magistrate of District may invest any Magistrate or Subordinate Magistrate with powers described in section 66A.*
70. *Summons by whom served.*
75. *Provisions in this chapter relating to a summons and its issue applicable to all summonses.*
77. *Warrants to whom directed.*
86. *Warrants to be endorsed may be sent by post.*
99. *Provisions in chapter V relating to a warrant and its issue applicable to all warrants.*
114. *Search-warrant when grantable.*
115. *Direction of search-warrant.*
121. *Magistrate may send search-warrant by post to the Magistrate of another District. Procedure to be observed by such Magistrate.*
121. *Search of house suspected to contain stolen property or forged documents.*
130. *Procedure by Police officer upon seizure of property.*
131. *Procedure where the owner is unknown.*
132. *Procedure if no claimant appear within six months from date of proclamation.*
132*A*. *Order for disposal of property.*
132*B*. *Stay of such order.*
132*C*. *Order may take form of reference.*
133. *Police officers to make enquiry into certain offences only when directed to do so by Magistrate.*
137. *If officer in charge of Police station see no sufficient ground for an enquiry.*
140. *Procedure when a Police officer deputes another.*
150. *So much of any statement or confession made by the accused as relates to a fact thereby discovered, may be given in evidence.*
158. *Prosecutors and witnesses to execute recognizances to appear before the Magistrate.*
161. *Police to make immediate enquiry and report on unnatural and sudden deaths.*
164. *Discharge of an offender on his submission.*
173. *Civil Courts empowered to complete investigation and commit accused to Court of Session.*
179. *Magistrate may issue his warrant. May issue a summons instead of a warrant.*
185. *Restoration of property declared to be forfeited.*
203. *No influence to be used to induce disclosures.*

208. *Sections* 188 *to* 192 *to apply to witnesses for defence.*
209. *Magistrate may tender pardon to accomplice.*
210. *High Court or Court of Session may direct tender of pardon.*
211. *When High Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered.*
221. *In what cases the powers given by sections* 219, 220 *may be exercised.*
222. *Warrant of commitment how to be directed.*
226*A*. *When accused appears to have been insane.*
248. *Cases in which Magistrate may issue a warrant. Summons instead of warrant.*
249. *Issue of process, &c.*
257. *Cases in which summons shall issue. When warrant may issue.*
262*A*. *Examination of accused.*
270. *Compensation in cases of frivolous or vexatious complaints. Recovery of such compensation.*
276. *Procedure of Subordinate Magistrate in cases beyond his jurisdiction.*
280. *Personal recognizance to keep the peace in cases of conviction. Where the convicting officer has not the powers of a Magistrate.*
308. *Magistrate may order removal of nuisances.*
310. *Person ordered shall obey, or may claim a jury. Constitution of jury. Suspension of orders. Procedure in case of non-appointment of or neglect by jury.*
311. *Procedure in case of disobedience or neglect by person ordered.*
312. *Procedure where jury finds Magistrate's order to be reasonable.*
313. *Procedure where person ordered satisfies Magistrate that the order is not reasonable.*
314. *Injunction pending enquiry by jury.*
322. *Local Government may order trials before Court of Session to be by jury.*
331. *Revision of list.*
363. *Refusal to plead, or plea of claim.*
371. *Dying declaration.*
372. *Defence.*
373. *When accused person may be examined.*
374. *When accused may address the Court.*
379*A*. *Withdrawal of remaining charges on conviction on one of several charges.*
380*A*. *Rules of evidence.*
383. *Execution of sentence of Court in cases referred to the High Court for confirmation of sentence.*
384. *Court of Session to send copy of finding and sentence to District Magistrate. Procedure after sentence passed by Court inferior to Session Court.*
385. *Execution of sentence under section* 383 *or* 384.
395. *Lunatic prisoners to be visited. Procedure where lunatic prisoner is certified to be capable of making his defence. Procedure where lunatic confined under section* 394 *is declared capable of being discharged.*
406. *Proceedings of a case revised by High Court to be certified to Court in which conviction was had. Proviso. Proviso.*
409. *Appeals from Magistrates.*
413. *Appeals from orders under chapter X.*
415. *Period for presenting petitions of appeal.*
421. *Appellate Court may suspend sentence pending appeal, and release defendant on bail.*
422. *Appellate Court may direct further enquiry, &c.*
427. *Court of appeal how to proceed in case of conviction by a Court not having jurisdiction.*
432. *Right of accused to be defended by counsel.*
435. *When Court of Session may order commitment of person discharged by Magistrate.*
438. *Expenses of prosecutors and witnesses.*
440. *Copy of sentence on order to be furnished on application.*
445*A*. *Extension of Code of Criminal Procedure.*
445*B*. *Procedure in cases triable by the Court of Session.*
445*C*. *Appeals.*
445*D*. *When High Court consists of one Judge.*

Preamble.

WHEREAS it is expedient further to amend the Code of Criminal Procedure; It is hereby enacted as follows:—

Short title.

I. This Act may be called "The Code of Criminal Procedure Amendment Act, 1869:" it shall be read with and taken as part of Act No. XXV of 1861, and it shall come into operation on the first day of June 1869.

Repeal of Acts.

II. The following Acts are hereby repealed (that is to say)—Act No. XXV of 1861 (*the Code of Criminal Procedure*), sections 187, 386 and 420, Act No. XXXIII of 1861 (*to amend the schedule annexed to the Code of Criminal Procedure*), Act No. XV of 1862 (*to amend the Code of Criminal Procedure*) and Act No. VIII of 1866 (*further to amend the schedule to the Code of Criminal Procedure*).

Repeal of schedule.

The schedule annexed to the said Code is hereby repealed, and the schedule annexed to this Act shall be read in lieu thereof.

Amendment of certain sections of Code of Criminal Procedure.

III. The following sections of the Code of Criminal Procedure, namely, sections 26, 27, 28, 29, 30, 31 and 33, shall be read as if the words "or division of a district," and the words "or divisions of a district" and the words "or of two or more divisions of a district" were omitted therefrom.

New sections.

IV. The said Code shall be read as if such of the following sections as are distinguished by numbers and letters were respectively inserted next after the sections of the said Code distinguished by those numbers.

Of the following sections, those distinguished by numbers only shall be substituted for the corresponding sections in the same Code, which are hereby repealed.

Local Government may delegate its power of appointing Magistrates.

23 A. With the sanction of the Governor-General in Council, the Local Government may delegate, with such limitations as it may think proper, to any officer under its control, the power conferred by section 23.

Succession to vacancies in the office of the Magistrate of a District.

23 B. When, in consequence of the office of the Magistrate of a District becoming vacant, any officer succeeds temporarily to the chief executive administration of the District in criminal matters, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties of the Magistrate of the District.

Power to determine local jurisdiction of a Magistrate of a District.

23 C. The Local Government may, by notification in the official *Gazette*, prescribe the local jurisdiction of a Magistrate of the District, as defined by section 14, and may by such notification from time to time alter such jurisdiction.

Power to appoint Magistrates in charge of Divisions of Districts.

23 D. The Local Government may invest any Magistrate with the local jurisdiction in a particular part of a District declared by section 18 to be deemed a Division of a District, and may from time to time alter the limits of such local jurisdiction.

Continuance of powers of officers transferred.

23 E. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any District, is transferred to an equal or higher office of the same nature within another District, he shall, unless the Local Government shall otherwise direct, continue to exercise the same powers in the District to which he is so transferred.

Powers may be varied or cancelled.

23 F. The Local Government may vary or cancel any powers with which any person may have been invested under this Act.

Subordination of all Magistrates to the Magistrate of the District.

23 G. Except as otherwise provided in this Act or by any other law for the time being in force, all Magistrates and Subordinate Magistrates shall be subordinate to the Magistrate of the District in which they exercise jurisdiction.

Delegation of certain powers of the Magistrate of a District.

23 H. The Local Government may, with such limitations as it may think proper, invest any Magistrate in charge of a Division of a District or any officer exercising the full powers of a Magistrate, with the authority conferred on the Magistrate of the District by sections 36, 66, 132, 308, 316, 318.

Concealment, &c., of kidnapped person.

31 A. If any person be charged under section 368 of the Indian Penal Code, with the offence of wrongfully concealing or keeping in confinement a person who has been kidnapped or abducted, such offence may be enquired into or determined in any District in which the concealment or confinement has taken place, or in any District in which the kidnapping or abduction may be enquired into or determined.

Magistrate may withdraw any case from a subordinate Court, and try it himself or refer it to any other such Court.

36. The Magistrate of the District, or a Magistrate in charge of a Division of a District, may respectively withdraw any criminal case from any Court subordinate to him, and may enquire into or try the case himself, or refer it for enquiry or trial to any other such Court competent to enquire into or try the same.

Certain Subordinate Magistrates not to hear complaints against European British subjects.

40 A. No Subordinate Magistrate who is not a Justice of the Peace shall exercise the authority conferred by section 40, unless he is empowered under section 38.

44. Whenever a Criminal Court imposes a fine, the Court may order the whole or any part of the fine to be paid in compensation.

(1). for expenses properly incurred in the prosecution,

(2). for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Court may apply portion of fine in compensation for loss or damage.

Such payment shall be made as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded by a Court whose decision is subject to revision, the amount awarded shall not be paid until a period of two months shall have elapsed from the date of the award.

49 A. The power conferred on the Local Government by section 49 may be exercised, under the orders and subject to the control of Government, by the Inspector General of Jails.

Power conferred under section 49 of the Code may be exercised by Inspector General of Jails.

61. Whenever an offender is sentenced to pay a fine, the Court which sentences him, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment, may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender. Such warrant may be executed within the jurisdiction of the Court that issued it, and it shall authorise the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Court when endorsed by the Magistrate of the District in which such property is situated

Levy of fine.

66. A. The Local Government may, by notification in the official *Gazette*, define what Magistrates or Subordinate Magistrates shall entertain cases either on complaint preferred directly to themselves or on the report of a Police officer; and such Magistrates or Subordinate Magistrates shall be competent to entertain such cases, if the offence charged is triable by them or, if they shall have been empowered under section 38.

Local Government to define what Magistrates and Subordinate Magistrates shall be empowered to entertain complaints preferred directly to themselves or on report of Police officer.

66 B. The Magistrate of the District may, subject to the orders of the Local Government, empower any Magistrate or Subordinate Magistrate in his District to entertain cases either on complaint preferred directly to themselves or on the report of a Police officer.

Magistrate of District may invest any Magistrate or Subordinate Magistrate with powers described in section 66A.

70. A summons shall ordinarily be issued through a Police officer; but the Magistrate issuing the summons may, if he see fit, direct it to be served by any other person.

Summons by whom served.

75. The provisions relating to a summons and its service and issue contained in this chapter, shall be applicable to every summons issued under this Act, except summonses to serve as a juror or assessor:

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed, and such head shall thereupon cause the summons to be served on the person named therein

Provisions in this chapter relating to a summons and its issue applicable to all summonses.

77. A warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing a warrant may, if he see fit, direct it to any other person.

Warrants to whom directed.

86. A Magistrate issuing a warrant for the arrest of a person out of his jurisdiction, may direct the warrant to any Magistrate within whose jurisdiction such person is, or is supposed to be, and may send the same by post.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if the warrant had been originally issued by himself.

If the person named in the warrant be apprehended, he shall be carried before the Magistrate who endorsed it, and shall be dealt with by such Magistrate as provided in section 84.

Warrants to be endorsed may be sent by post.

99. The provisions relating to a warrant and its service and issue contained in this chapter shall be applicable to every warrant of arrest issued under this Act.

Provisions in chapter V relating to a warrant and its issue applicable to all warrants.

114. When a Magistrate considers that the production of anything is essential to the conduct of an enquiry into an offence known or suspected to have been committed, or when he considers that such enquiry will be furthered by the search or

Search-warrant when grantable.

inspection of any house or place, he may grant his search-warrant, and the officer charged with the execution of such warrant may search any house or place within the jurisdiction of such Magistrate.

The Magistrate may, if he see fit, specify in his warrant the house or place, or part thereof, to which only the search or inspection shall extend, and the officer charged with the execution of such warrant shall then search only the house, place or part so specified.

Direction of search-warrant.

115. A search-warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing the warrant may, if he see fit, direct it to any other person.

Magistrate may send search-warrant by post to the Magistrate of another District.

121. A Magistrate issuing a search-warrant to be executed in any house or place out of the jurisdiction of the Magistrate of the District, may direct the warrant to any Magistrate within whose jurisdiction such house or place is situate, and may send the same by post.

Procedure to be observed by such Magistrate.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon and enforce its execution in the same manner as if it had been originally issued by himself.

If the warrant is to be executed within the local limits of the High Court, it shall be addressed to the Commissioner of Police or to a Police Magistrate. In such case any property found on search made, may be dealt with as provided in sections 118 and 119

Search of house suspected to contain stolen property or forged documents.

127. If the Magistrate of the District or a Magistrate in charge of a Division of a District, or any other officer exercising the powers of a Magistrate, upon information and after such enquiry as he may think necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents or counterfeit Government stamps or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents or counterfeit stamps or false seals or any counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any house or other place,

he may by his warrant authorize any Police officer above the rank of a constable to enter, with such assistance as may be required, and by force if necessary, any such house or other place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals, or coins therein found, which he may reasonably suspect to be stolen, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid.

Procedure by Police officer upon seizure of property.

130. The seizure by any Police officer of property alleged or suspected to have been stolen, or of property seized by any Police officer under circumstances which create suspicion of the committal of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order respecting the custody and production of the property as he shall think proper.

If the property is of a perishable nature, or if it appear to the Magistrate that its sale would be for the benefit of the owner, he may at any time direct it to be sold and shall hold the proceeds in trust for the owner subject to the provisions contained in sections 131 and 132 :

Provided that no Subordinate Magistrate of the Second Class shall exercise this power unless he is generally or specially authorized to do so by the Magistrate of the District.

Procedure where the owner is unknown.

131. When the owner of any such property is unknown, the Magistrate may detain the same, or the proceeds thereof if sold, and in case of such detention shall issue a proclamation specifying the articles of which such property consists or consisted, and requiring any person who may have a claim thereto or to the proceeds thereof to appear before him and establish his claim within six months from the date of such proclamation.

Procedure if no claimant appear within six months from date of proclamation.

132. If no person within such period establishes his claim to such property or proceeds, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District, or if it has been already sold by the Magistrate, the proceeds shall be at the disposal of the Government.

Order for disposal of property.

132 A. When the trial in any Criminal Court is concluded, the Court at the time of passing judgment may pass such order as appears right for the disposal of any property produced before it regarding which any offence appears to have been committed.

Stay of such order.

132 B. Any Court of appeal, reference or revision may direct any such order passed by a Court subordinate thereto to be stayed, and may modify, alter or annul it.

132C. The order passed by any Court under section 132A or 132B may be in the form of a reference of the property to the Magistrate of the District, who shall in such cases deal with it as if he were acting under sections 130, 131 and 132 under the circumstances mentioned in section 130, and the seizure had been reported to him by the Police.

Order may take from of reference.

133. Except as provided in section 108, no Police officer shall, without an express order from a Magistrate, enquire into or take cognizance of any offence punishable under the Indian Penal Code, other than the offences described in column 3 of the schedule annexed to this Act, as offences for which a Police officer may arrest without warrant. But it shall be competent to a Magistrate, upon the report of a Police officer or otherwise, to direct enquiry to be made by a Police officer into any offence punishable under the Indian Penal Code or under any special or local law.

Police officers to make enquiry into certain offences only when directed to do so by Magistrate.

137. Provided also that, if it appear to the officer in charge of a Police station that there is no sufficient ground for entering on an enquiry, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall not proceed in the case, but shall report the substance of the complaint or information for the orders of the Magistrate having jurisdiction.

If officer in charge of Police Station see no sufficient ground for an enquiry.

140. When any officer in charge of a Police station requires any officer subordinate to him to make, without a warrant, an arrest which may lawfully be made by such officer without a warrant, he shall deliver to the Police officer required to make the arrest an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

The provisions of sections 82, 90, 91, 92, 93, 94, 95 and 96 shall be applicable to every order in writing issued under this section.

Procedure when a Police officer duputes another.

150. Provided that, when any fact is deposed to in evidence as discovered in consequence of information received from a person accused of any offence or in the custody of a Police officer, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact thereby discovered may be received in evidence.

So much of any statement or confession made by the accused as relates to a fact thereby discovered, may be given in evidence.

158. Every prosecutor and witness, whose attendance before the Magistrate is deemed necessary by the Police officer making the enquiry, shall execute a recognizance in the form (E) given in the Appendix hereto or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day.

Prosecutors and witnesses to execute recognizances to appear before the Magistrate.

Such day shall be the day whereon the accused person is to appear, if he shall have been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the recognizance is executed, shall, after delivering to the prosecutor or one of the witnesses a duplicate thereof, send it with his report to the Magistrate.

No Police officer shall accompany the prosecutor or witnesses on his or their way to the Court of the Magistrate.

161. The officer in charge of a Police station, on receiving notice or information of the unnatural or sudden death of any person, shall immediately give intimation thereof to the nearest Magistrate, and proceed to the place where the body of such deceased person is, and there in the presence of two or more respectable inhabitants of the neighbourhood, shall make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted.

Police to make immediate enquiry and report on unnatural and sudden deaths.

The report shall be signed by such Police officer and other persons or by so many of them as concur therein, and shall be forthwith forwarded to the Magistrate.

When there may be any doubt regarding the cause of death, such Police officer shall forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other medical officer appointed in this behalf by the Local Government if the state of the weather and the distance admit of its being so forwarded without risk of putrefaction on the road.

In the Presidencies of Madras and Bombay it shall be the duty of the head of the village to make the enquiry and report as aforesaid.

164. When any Court has adjudged an offender to punishment, or forwarded him to a Magistrate or Justice of the Peace for trial under section 163, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may discharge the offender, or remit

Discharge of an offender on his submission.

the punishment, on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Civil Courts empowered to complete investigation and commit accused to Court of Session.

173. In any case triable by the Court of Session exclusively, any Civil Court before which any such offence was committed may, instead of sending the case for investigation to a Magistrate, complete the investigation itself, and commit or hold to bail the accused person to take his trial before the Court of Session.

For the purposes of investigation under this section the Civil Court may exercise all the powers of a Magistrate.

Magistrate may issue his warrant.

179. When a complaint is made to the Magistrate of the District or any other officer exercising the powers of a Magistrate, or to any Subordinate Magistrate empowered to commit persons for trial before the Court of Session, that any person has committed, or is suspected to have committed, any offence triable exclusively by the Court of Session, or which, in the opinion of such Magistrate, ought to be tried by the Court of Session, such Magistrate may issue his warrant to arrest such person :

May issue a summons instead of a warrant.

Provided that, in any such case the Magistrate to whom such complaint is made may, if he thinks fit, instead of issuing in the first instance his warrant to arrest the accused person, issue his summons requiring him to appear to answer to such complaint.

Restoration of property declared to be forfeited

185. When any person whose property has been declared to be at the disposal of Government under section 184 appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Court trying him for the offence of which he was accused, or, if not tried or committed for trial for that offence, to the satisfaction of the Magistrate of the District, that he did not abscond or conceal himself for the purpose of evading justice, such property, or if the same has been sold, the proceeds thereof, shall be restored to him.

No influence to be used to induce disclosures.

203. Except as provided in section 209 no influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

Sections 188 to 192 to apply to witnesses for defence.

208. The provisions of sections 188 to 192 (both inclusive) shall be applicable to witnesses named in support of the defence, who may be summoned by the Magistrate.

Magistrate may tender pardon to accomplice

209. The Magistrate of the District or other officer exercising the powers of a Magistrate, and any Subordinate Magistrate duly empowered under section 26, recording his reason for so doing, may tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in column 7 of the schedule hereto annexed as triable by the Court of Session, on condition of his or their making a full, true, and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof.

If any person accepts a tender of pardon under this section, he shall be examined as a witness in the case under the rules applicable to the examination of witnesses.

Such person, if not on bail, may, if the Magistrate or other officer as aforesaid thinks proper, be detained in custody pending the termination of the trial.

High Court or Court of Session may direct tender of pardon.

210. The High Court as a Court of reference, in cases tried with the aid of assessors, and the Court of Session, after committal but before the commencement of a trial, may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, instruct the magistrate to tender a pardon on the same condition to such person or persons.

The Court of Session in like manner and on the same condition may, at any time during a trial, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, tender a pardon to such person or persons.

When High Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered.

211. When a pardon has been tendered under section 209 or section 210, if it appears to the Magistrate before the committal or to the Court of Session at the time of trial, or to the High Court as a Court of reference, that any person who has accepted an offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence or information, such Magistrate or Court may commit or direct the commitment of such person for trial for the offence in respect of which the pardon was so tendered.

In what cases the powers given by sections 219, 220 may be exercised.

221. The powers given by sections 219 and 220 may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-

appearance of such party or witness before such Court according to the conditions of such recognizance or bail :

Provided that the Magistrate or Court may at his or its discretion remit any portion of the penalty mentioned in the personal recognizance or in the recognizance of the surety or sureties, and enforce payment in part only :

All orders passed by any Magistrate under this section or section 219 or section 220 shall be subject to revision by the Magistrate of the District.

Warrant of commitment how to be directed, &c.

222. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor, or other officer or person having authority to receive and keep prisoners, and shall be in the form (C) given in the appendix to the said Code or to the like effect.

When accused appears to have been insane.

226 A. When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which if he had been of souud mind would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, he shall be sent for trial by the Magistrate before the Court of Session :

If the Magistrate is a Justice of the Peace and the accused person is a European British subject, such person shall be sent for trial before the High Court.

Cases in which Magistrate may issue a warrant.

248. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected to have committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, such Magistrate may issue his warrant to arrest such person :

Summons instead of warrant.

Provided that in any such case the Magistrate to whom the complaint is made may, for any sufficient reason, instead of issuing his warrant in the first instance, issue his summons, requiring the person complained against to appear to answer to such complaint.

Issue of process, &c.

249. The provisions of sections 180 to 206 (both inclusive) and of sections 212 to 221 (both inclusive) and of section 224 shall be applicable to cases tried under this chapter :

On completing the examination of a witness under this section, the Magistrate, in addition to the memorandum required by section 199, shall record such remarks as he may think material respecting the demeanour of any witness while under examination.

Cases in which summons shall issue.

257. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed or is suspected to have committed any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, the Magistrate may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate to answer to the complaint :

When warrant may issue.

Provided that, if the Magistrate is satisfied or has reason to believe that the accused person is about to abscond, he may, instead of issuing a summons, issue his warrant in the first instance for the arrest of such person.

Examination of accused.

262 A. The Magistrate may examine the accused person subject to the provisions of sections 202, 203, 204 and 205.

Compensation in cases of frivolous or vexatious complaints.

270. Whenever the Magistrate dismisses the complaint as frivolous or vexatious, he may, in his discretion, by his order of dismissal, award that the complainant shall pay to the accused person such compensation, not exceeding fifty rupees, as to such Magistrate seems just and reasonable :

In such cases, if more persons than one are accused, the Magistrate may in like manner award compensation not exceeding fifty rupees to each of them :

Recovery of such compensation.

The amount so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District, and in default of such distress, by imprisonment of the complainant in the civil jail, for any time not exceeding thirty days, unless such shall be sooner paid.

Procedure of Subordinate Magistrate in cases beyond his jurisdiction.

276. If, in the course of a trial before a Subordinate Magistrate, the evidence appears to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial, he shall stay proceedings and submit the case to the Magistrate to whom he is subordinate, or to such other Magistrate having jurisdiction as the Magistrate of the District may direct :

The Magistrate to whom the case is submitted shall either try the case himself or refer it to any officer subordinate to him having jurisdiction, or he may commit the accused person for trial ;

In any such case, such Magistrate or other officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court

But any statement or confession duly made by an accused person in the course of the trial before the Subordinate Magistrate shall be admissible as evidence.

Personal recognizance to keep the peace in cases of convictions.

280. Whenever a person charged with rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such charge before any Court of Session or the Magistrate of the District or a Magistrate in charge of a Division of a District or other officer exercising the powers of a Magistrate,

and the Court or Magistrate or other officer as aforesaid by which or by whom the accused person is convicted, or the Court or Magistrate or other officer as aforesaid by which or by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require a personal recognizance for keeping the peace from the person so convicted,

the Court or Magistrate or other officer as aforesaid so convicting the accused person, or so passing the final sentence or order as aforesaid, may, in addition, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by a Magistrate, or three years if the sentence or final order be passed by a Court of Session:

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance shall commence when he is released.

Where the convicting officer has not the powers of a Magistrate.

When any accused person is convicted of any offence specified in this section by an officer not exercising the powers of a Magistrate, such officer, if he consider it just and necessary to require a personal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, or other officer exercising the powers of a Magistrate to whom such officer may be subordinate, who shall deal with the case as if the conviction had been before himself.

Magistrate may order removal of nui-

308. Whenever the Magistrate of a District or of a Division of a District, considers that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place,

or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place.

or that the consideration of any building or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented,

or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary,

or that any tank or well adjacent to any public thoroughfare shall be fenced in such a manner as to prevent danger arising to the public—

he may issue an order to the person causing such obstruction or nuisance, or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank, or well as aforesaid, calling on him, within a time to be fixed in the order,

to remove such obstruction or nuisance,
or to suppress or remove such trade or occupation,
or to stop the construction of such building,
or to remove it,
or to alter the disposal of such substance,
or to fence such tank or well,
(as the case may be),

or to appear before himself or some other officer exercising the powers of a Magistrate or of a Subordinate Magistrate of the First Class within the time mentioned in the order, and show cause why such order should not be enforced.

Person ordered shall obey, or may claim a jury.

310. The person to whom such order is issued shall be bound, within the time specified in the order, to obey the same or to appear before the Magistrate before whom he was required by the order to appear to show cause as aforesaid, or he may apply to such Magistrate for an order for a jury to be appointed to try whether the order is reasonable and proper.

Constitution of jury.

On receiving such application, the Magistrate shall forthwith appoint a jury consisting of an odd number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant:

The execution of the order shall be suspended pending such enquiry, and the Magistrate who issued the order shall be guided by the decision of the jury, which shall be according to the opinion of the majority:

Suspension of order.

If the applicant, by neglect or otherwise, prevents the appointment of a jury, or if from any cause the jury so appointed does not decide and report within a reasonable time to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate:

Procedure in case of non-appointment of or neglect by jury.

If from any of the above causes no decision be made by the jury, the order of the Magistrate may be carried into effect as hereinafter provided.

311. If the person to whom the order mentioned in section 308 is issued does not obey such order,

or show cause against the same as hereinafter provided,

or apply for a jury within the time specified in such order,

he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code;

and the Magistrate who issued such order may proceed to carry it into execution at the expense of such person, and may realize such expenses either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of the moveable property of the person aforesaid.

Procedure in case of disobedience or neglect by person ordered.

No suit shall lie in respect of anything necessarily or reasonably done to give effect to such order.

312. If in a case referred to a jury, the jury find that the order of the Magistrate is reasonable and proper, the Magistrate who issued the order shall give notice of such finding to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned within a time to be fixed in the notice and an intimation that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

Procedure where jury finds Magistrate's order to be reasonable.

If such latter order is not obeyed, the Magistrate may proceed as in section 311.

313. If the person to whom the order of the Magistrate is issued appears and shows cause against it, so as to satisfy the Magistrate who issued it that it is not reasonable and proper, no further proceedings shall be taken in the case.

Procedure where person ordered satisfies Magistrate that the order is not reasonable.

314. If, pending the enquiry by a jury, the Magistrate that issued the order considers that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person mentioned in that behalf in section 308 as is required to obviate or prevent such danger or injury.

Injunction pending enquiry by jury.

In default of such person forthwith taking all necessary measures ordered to be taken by such injunction, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury.

No suit shall lie in respect of any thing necessarily or reasonably done for that purpose.

322. The Local Government may order that the trial of all offences or of any particular class of offences before any Court of Session shall be by jury in any district, and such Local Government may from time to time revoke or alter such order.

Local Government may order trials before Court of Session to be by jury.

The Local Government may also, if it see fit, direct that, in any district or in any class of offences, the jurors shall, before the trial, be sworn in such form as the Government may prescribe.

Orders passed under this section shall be published in the *Government Gazette*, and in such other manner as the Local Government shall from time to time direct.

331. The Collector or other officer as aforesaid shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a juror or as an assessor, or who may avail himself of the exemption from service given by section 335, and insert the name of any person omitted from the list whom he deems qualified for such service.

Revision of list.

A copy of the revised list shall be signed by the Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Collector or other officer as aforesaid in preparing and revising the list shall be final.

363. If the accused person refuses to plead, or claims to be tried, the Court shall proceed to choose jurors or select assessors and to try the case.

Refusal to plead, or plea of claim.

Dying declaration.

371. The declaration of a deceased person, whether it be reduced to writing or not and whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

Defence.

372. When the case for the prosecution has been brought to a close, the Court may, if it considers that there are no grounds for proceeding with the trial, record a judgment of acquittal; otherwise the accused person shall be called upon to enter upon his defence, and to produce his evidence.

When accused person may be examined.

373. The Court, at the close of the case for the prosecution, and at the close of the evidence on behalf of the accused person (if he produces any evidence), may put any questions to the accused person which it may think proper.

It shall be in the option of the accused person to answer such questions, and after such questions shall have been answered by the accused person, he or his counsel or agent may address the Court on the subject thereof.

The provisions of section 204 shall apply to examinations under this section.

When accused may address the Court.

374. The accused person or his counsel or agent may, at his option address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf.

Withdrawal of remaining charges on conviction on one of several charges.

379A. In trials before a Court of Session, when more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government pleader or other officer conducting the prosecution may with the consent of the Court withdraw, or the Court of its own accord may suspend, the enquiry into the remaining charge or charges.

Rules of evidence.

380A. The rules contained in sections 367, 368, 369, 370 and 371, shall be applicable to all trials and enquiries before Criminal Courts.

Execution of sentence of Court in cases referred to the High Court for confirmation of sentence.

383. In cases referred by the Court of Session for the confirmation of a sentence by the High Court, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court, and attested with his official signature, to the Court of Session.

Such Court shall, if the sentence be confirmed, immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined to cause the sentence or order to be carried into execution; or in the case of any other order, shall cause such order to be carried into effect.

Court of Session to send copy of finding and sentence to District Magistrate.

384. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence to the Magistrate of the District in which the trial was held.

If the accused person is sentenced to imprisonment, the Court shall forthwith forward him with a warrant for the execution of the sentence to the officer in charge of the jail of the district in which the trial was held.

The warrant shall state the offence of which the accused person has been convicted and the period during which he is to be imprisoned and the nature of the imprisonment.

Procedure after sentence passed by Court inferior to Session Court.

In cases tried by any Court inferior to a Court of Session, the Court passing the sentence shall forthwith forward the accused person with a similar warrant for the execution of the sentence to the officer in charge of the jail of the district in which the trial was held.

Execution of sentence under section 383 or 384.

385. Upon the receipt of a warrant under section 383 or 384, the officer in charge of the jail shall cause the sentence to be executed, and shall return the warrant when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

Lunatic prisoners to be visited.

395. *Clause* 1.—When any person is confined under the provisions of section 390 or section 394, the officer in charge of the jail, if such person is confined in a jail, or the visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every three months by such officer in charge of the jail or by two of such visitors as aforesaid, who shall make a special report to the Local Government as to his state of mind.

Procedure where lunatic prisoner is certified to be capable of making his defence.

Clause 2.—If such person is confined under section 390, and such officer or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session shall appoint; and such Magistrate or Court shall deal with such person under the provisions of section 392, and the certificate of such officer or visitors as aforesaid shall be receivable as evidence.

Clause 3.—If such person is confined under the provisions of section 394, and such officer or visitors as aforesaid shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government shall thereupon either order his discharge or order him to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and shall appoint a commission consisting of a judicial officer not below the grade of a Sessions Judge, and two medical officers whereof the chief medical officer attached to the Lunatic Asylum shall be one. The said commission shall make formal enquiry into the state of mind of such person, taking such evidence as shall be necessary; and if they consider that he can be set at liberty without danger to himself or to any other person, he shall be discharged.

Procedure where lunatic confined under section 394 is declared capable of being discharged.

406. Whenever a case is revised by the High Court under this chapter, it shall certify its decision or order to the Court in which the conviction was had or by which the order was passed; or, if the conviction or order was passed by a Magistrate other than the Magistrate of the District, to the Magistrate of the District.

Proceedings of a case revised by High Court to be certified to Court in which conviction was had.

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court, and if necessary the record shall be amended in accordance therewith:

Proviso.

Provided that, in any case revised by the High Court under this chapter, the High Court shall not reverse the verdict of the jury, or, except as provided in this chapter, alter or reverse the sentence or order of the Court below.

Proviso.

409. Any person convicted on a trial held by the Magistrate of the District or other officer exercising the powers of a Magistrate, or required by such Magistrate or other officer under section 295 or section 296 to give security for good behaviour, may appeal to the Court of Session of the District.

Appeals from Magistrates.

413. Any person convicted by any Civil, Criminal or Revenue Court under chapter X of this Act may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, subject to the rules provided in sections 416, 417, 418, 419, 420, 421 and 422.

Appeals from orders under chapter X.

Petitions of appeal under this section, if presented to any District Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

Petitions of appeal to the High Court must be presented within sixty days calculated as last aforesaid.

An appeal may be admitted after the time herein provided on sufficient cause shown.

415. Petitions of appeal to any Appellate Court, except the High Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

Period for presenting petitions of appeal.

Petitions of appeal to the High Court must be presented within sixty days calculated as above.

An appeal may be admitted after the time herein provided on sufficient cause shown.

421. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may order that he be released on bail; and the High Court may exercise the same authority in cases coming before it as a Court of revision.

Appellate Court may suspend sentence pending appeal, and release defendant on bail.

422. In any case in whch an appeal has been allowed, the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may direct such enquiry to be made and additional evidence to be taken.

Appellate Court may direct further enquiry, &c.

The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and the Appellate Court shall thereupon proceed to dispose of the appeal in the manner prescribed by section 419.

Unless the Appellate Court otherwise direct the presence of the appellant may be dispensed with when the further enquiry is made or evidence taken.

The provisions of chapter XII relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this section.

427. When any Court has convicted a person of an offence not triable by such Court, the Appellate Court may annul the conviction and sentence of such Court, and direct the trial of the case by a Court of competent jurisdiction.

Court of appeal how to proceed in case of conviction by a Court not having jurisdiction.

432. Every person charged before any Criminal Court with an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader

Right of accused to be defended by counsel

duly qualified under the provisions of Act No. XX of 1865, or any other law in force for the time being relating to pleaders. Provided that any such person may with the permission of the Court (but not otherwise) employ any other person not being a barrister, attorney or pleader to assist him in his defence.

When Court of Session may order commitment of person discharged by Magistrate.

435. In the case of offences specified in the seventh column of the schedule to this Act annexed as triable by the Court of Session only or by the Court of Session or Magistrate of the District, the Court of Session may order the commitment of any accused person who may have been discharged by any Magistrate. In the case of such offences the Court of Session may order an enquiry into any complaint which any Magistrate may have dismissed without enquiry.

In the case of such offences the Magistrate of the District shall have like powers where the Magistrate who has discharged the accused person or dimissed the complaint without enquiry is a Subordinate Magistrate.

If the Court of Session consider that any person convicted by a Magistrate has committed an offence not triable by such Magistrate, it may annul the conviction and sentence and direct the commitment of the accused person for trial before itself.

Expenses of prosecutors and witnesses.

438. Subject to any rules that may be passed by the Local Government with the previous sanction of the Governor-General of India in Council, the Criminal Courts may order payment on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

Copy of sentence or order to be furnished on application.

440. A copy of the final sentence or order passed by any Criminal Court together with the reasons for passing or making the same shall be furnished without delay on the application of any party to the case in which such sentence or order was passed.

Such copy shall be made at the expense of the person applying for it, unless he is in confinement under the sentence or order and is desirous of appealing against the same, or unless the Court for any special reason sees fit to grant such copy free of expense.

Extension of Code of Criminal Procedure.

445A. When under the provisions of section 445 this Act has been or shall be extended to any part of the territories not subject to the general Regulations of Bengal, Madras or Bombay, the Governor-General in Council or the Local Government of such territory may invest the chief officer charged with the executive administration of a district in criminal matters, by whatever designation such officer is called, with power to try all offences not punishable with death, and under the provisions of the said Code to pass sentence of imprisonment of either description for a term not exceeding seven years, including such solitary confinement as is authorized by law, or fine or both.

Procedure in cases triable by the Court of Session.

445B. Such chief officer shall try as a Court of Session offences which, under the schedule hereto annexed, are triable by a Court of Session only, and in such trials shall be guided by the rules contained in chapter XXV of this Code.

Appeals.

445C. Any person convicted on a trial held by any officer invested with the power described in section 445A may appeal to the High Court, and no appeal against such conviction shall lie to the Court of Session.

When High Court consists of one Judge.

445D. When the High Court of reference, revision or appeal in any part of the territories to which this Code has been or shall be extended as aforesaid, consists of a single Judge, he shall have all the powers of two or more Judges of the Sadr Court under sections 398 and 401.

ACT No. X of 1869.

(*Received the assent of the Governor-General on the* 18*th March* 1869.)

An Act to abolish the Police Superannuation Funds.

1. *Repeal of enactments establishing Funds.*
2. *Transfer to Government of sums at credit of Funds.*

Preamble.

WHEREAS a Fund called "The Police Superannuation Fund" has been formed under Act No. XXIV of 1859 (*for the better regulation of the Police within the territories subject to the Presidency of Fort Saint George*), section twelve; and whereas similar Funds have been formed under Act No. V of 1861 *for the regulation of*

Police), section eleven, and under the Act of the Governor of Bombay in Council, No. VII of 1867 (*for the regulation of the District Police in the Presidency of Bombay*), section twelve; and whereas it is expedient to abolish the said Funds and to transfer to the Government of India the securities and monies at the credit of such Funds respectively; It is hereby enacted as follows:—

1. The said sections shall be repealed from such day as the Governor-General of India in Council shall, by notification in the *Gazette of India*, direct in this behalf.

Repeal of enactments establishing Funds.

2. All securities and sums of money which, on the said day, shall be standing at the credit of the said Funds respectively, shall be transferred and paid to the Government of India for the general purposes of government.

Transfer to Government of sums at credit of Funds.

ACT No. XIII OF 1869.

(*Received the assent of the Governor-General on the* 19*th March* 1869.)

An Act further to amend the Procedure of the High Court of Judicature for the North-Western Provinces.

1. *Power to try Native together with European British subject. Proviso.*
2. *Suspension of sections* 198 *and* 364 *of Code of Criminal Procedure.*
3. *Power to award costs on petitions, &c.*
4. *Penalty for making false statements in support of petitions, &c.*

WHEREAS it is expedient to amend the Procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William; It is hereby enacted as follows:—

Preamble.

1. In any case before the said High Court in which an European British subject is charged jointly with a person not being an European British subject, a jury may be empanelled for the trial of both persons so charged, and they may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately.

Power to try Native together with European British subject.

In any case before the said High Court in which an European British subject is charged jointly with a person not being an European British subject, and the former, before the jury is empanelled, requires the majority of the jurors to consist of Europeans or Americans, or both Europeans and Americans, the latter person shall be tried together with the former, and the procedure on the trial shall be the same as it would have been had the former been tried separately:

Provided that, in any such case, where the person not an European British subject so requires before the said jury is empanelled, he shall be tried separately by a jury of which at least one-half shall consist of persons not being Europeans or Americans.

Proviso.

2. The operation of sections 198 and 364 of the Code of Criminal Procedure is hereby suspended in the said High Court, and in any case coming before the Court in the exercise of its ordinary or its extraordinary original criminal jurisdiction, the Judges of such Court shall take down the evidence or the substance thereof in such manner as the Court shall, by any general rule, from time to time direct.

Suspension of sections 198 and 364 of Code of Criminal Procedure.

3. Whenever any petition, application or motion is made in any matter coming before the said Court in the exercise of its civil, criminal or other jurisdiction, the Court shall have power to award and apportion costs in any manner it may think fit.

Power to award costs on petitions, &c.

4. Whenever the Court shall require the statements in support of any such petition, application or motion to be verified by a declaration in writing, the person making such verification shall, if any such statement is false, and if he either knows or believes it to be false, or does not believe it to be true, be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Penalty for making false statements in support of petitions, &c.

THE PRISONERS' TESTIMONY ACT, 1869.

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ACT No. XV OF 1869.

(*Received the assent of the Governor-General on the 4th June* 1869.)

An Act to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.

WHEREAS it is expedient to provide facilities for obtaining the evidence and appearance in Court of prisoners and for service of process upon them; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Prisoners' Testimony Act, 1869." Short title.

2. For the purposes of this Act, the Courts of Small Causes established within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, and the Courts of persons exercising the powers of a Magistrate of Police within the same limits, shall be deemed to be respectively subordinate to the said High Courts. Presidency Small Cause Courts.

PART II.

BRINGING UP PRISONERS.

3. Any Criminal Court not inferior to the Court of a Subordinate Magistrate of the first class may in its discretion, if it appear that the testimony of any person confined in any jail situate within the local limits of its appellate jurisdiction, if the Criminal Court be a High Court, or, if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter depending in such Criminal Court, or if a charge of an offence against such person is made or pending, make an order in the form in schedule A or schedule B (as the case may be) to this Act annexed, directed to the officer in charge of the said jail. Criminal Courts may make orders under Act.

4. Any Civil Court may in its discretion, if it appear that the testimony of any person confined in any jail situate within the local limits of its appellate jurisdiction, if the Civil Court be a High Court, or, if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter depending in such Civil Court, make an order in the form in the said schedule A, directed to the officer in charge of the said jail. Civil Courts may make orders under Act.

5. When such order is made in any civil matter pending in a Court subordinate to the Court of the District Judge, or in any Court of Small Causes situate outside the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal, Madras and Bombay, it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until the same shall have been submitted to, and countersigned by, such Judge, or the District Judge within the local limits of whose jurisdiction such Court of Small Causes is situate. Court to countersign orders.

Every order so submitted shall be accompanied by a statement under the hand of the Judge of the facts which in his opinion render such order necessary, and the District Judge may, after considering such statement, decline to countersign [illegible] Statement of facts necessitating order.

[illegible] person for whose attendance an order as hereinbefore mentioned [illegible] is confined in any District other than that in which the Court [illegible] countersigning the order is situate, the order shall be sent by the Court [illegible] shall have been made or countersigned to the Magistrate of the District or division of a District in which the said person is confined, and such Magistrate shall cause it to be delivered to the officer in charge of the jail in which such person is confined. Order to be transmitted through Magistrate of the District in which the person is confined.

7. In any case in which a person is confined in a jail within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature at Fort William, Madras and Bombay, or in a jail more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required shall, if he think it expedient that such person should be removed under this Act for the purpose of giving evidence in such Court, if the said jail is situate within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the same High Court, and Order by High Court for removal of person confined more than 100 miles from place where his evidence is required.

such High Court may, if it think fit, make an order in the form in the said schedule A, directed to the officer in charge of the said jail.

The High Court making the order shall send it to the Magistrate of the District or division of a District in which the person named therein is confined, and such Magistrate shall cause the order to be delivered to the officer in charge of the jail in which such person is confined.

For the purposes of this section and sections three and four, the Chief Commissioner of British Burma shall be deemed to be a High Court: the Court of a Recorder appointed under Act No. XXI of 1863 shall be deemed to be subordinate to the said Commissioner; and every jail situate in British Burma shall be deemed to be situate within the local limits of the said Chief Commissioner's appellate jurisdiction.

Persons confined beyond limits of appellate jurisdiction of High Court.

8. In any case in which a person is confined within a jail situate beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he think it expedient that such person should be removed under this Act, for the purpose of giving evidence in any criminal matter in such or in any Court subordinate thereto, apply in writing to the Local Government within the territories subject to which the said jail is situate; and such Government may, if it think fit, direct that such person shall be so removed, subject to such rules regulating the escort of such prisoners as the Governor-General of India in Council may from time to time prescribe.

To obtain the removal of a person confined in a jail situate beyond the territories for the time being under the administration of the Chief Commissioner of British Burma for the purpose of giving evidence in any criminal matter in the Court of a Recorder appointed under the said Act No. XXI of 1863, such Recorder shall have the power conferred on a Judge of a High Court by the former part of this section, and the other provisions of such part shall, *mutatis mutandis*, apply.

Prisoner to be brought up.

9. Upon delivery of any order under this Act to the officer in charge of the jail in which the person named therein is confined, such officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in such Court at the time in such order mentioned; and shall cause him to be detained in custody in or near the Court until he shall have been examined or until the Judge or presiding officer of such Court shall authorize him to be taken back to the jail in which he was confined.

Power to Government to exempt certain prisoners from operation of Act.

10. The Governor-General of India in Council or the Local Government may, from time to time, by notification in the official *Gazette*, direct that any person or any class of persons shall not be removed from the Jail in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Act, other than those contained in sections twelve, thirteen and fourteen, shall not apply to such person or class of persons.

When jailor may disobey orders.

11. When any person named in any order made under section three, section four, or section seven appears to be from sickness or other infirmity unfit to be removed, the officer in charge of the jail in which he is confined shall apply to the Magistrate of the District or division of a District in which such jail is situate, and if such Magistrate shall by writing under his hand declare himself to be of opinion that such person is from infirmity unfit to be removed;

or when any person named in any such order is under committal for trial;

or under a remand pending trial or pending a preliminary investigation;

or when any such person is in custody for a period which would expire before the expiration of the time required for removing him under this Act and for taking him back to the jail in which he is confined;

then and in every such case the officer in charge of the jail shall abstain from obeying such order, and shall send to the Court from which the order has been issued, a statement of his reason for not obeying the same:

Provided that the said officer shall not so abstain when

the order has been made under section three,

and the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be from sickness or other infirmity unfit to be removed,

and the place where his evidence is required is not more than five miles distant from the jail in which he is confined.

PART III.

COMMISSIONS.

Commission for examination of prisoners.

12. Whenever it shall appear to any Civil Court that the evidence of a person confined in any jail situate within the local limits of the appellate jurisdiction of such Court, if it be a High Court, or if it be not a High Court, then

within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who for any of the causes mentioned in section ten or section eleven cannot be brought up before it, is material in any matter depending before such Court,

and whenever it shall appear to any such Court that the evidence of a person confined in any jail so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter,

and in any case in which the District Judge shall under section five have declined to countersign the order for removal,

the Court may, if it think fit, issue a commission under the provisions of the Code of Civil Procedure for the examination of such person in the jail in which he is confined.

Commission for examination of prisoners beyond limits of appellate jurisdiction of High Court.

13. Whenever it shall appear to any High Court that the evidence of a person confined in a jail situate beyond the local limits of its appellate jurisdiction is material in any civil matter depending before such Court, or before any Court subordinate thereto, the High Court may, if it think fit, issue a commission under the provisions of the Code of Civil Precedure for the examination of such person in the Jail in which he is confined.

Commission how to be directed.

14. Every commission issued under section twelve or section thirteen shall be directed to the District Court of the District wherein the jail in which such person is confined is situate, and such Court shall commit the execution of the commission to the officer in charge of such jail, or to such other person as the Court thinks fit.

PART IV.

SERVICE OF PROCESS ON PRISONERS.

Process how served on prisoners.

15. When any process directed to any person confined in any jail is issued from any Court, the same may be served by exhibiting to the officer in charge of such jail or person the original of such process, and by depositing with him a copy thereof.

Process served to be transmitted at prisoner's request.

16. Every officer in charge of a jail upon whom any such service as is mentioned in section fifteen shall be made, shall, as soon as may be, cause the copy of the process so deposited with him to be shown and explained to the prisoner to whom it is directed, and shall thereupon endorse upon such process a certificate signed by him that the prisoner to whom the process is directed is a prisoner in the jail under his charge, and that he has received a copy thereof.

Such certificate shall be sufficient *primâ facie* evidence of the service of such process; and if the prisoner requests that the said copy be sent to any other person, and provides the cost of so sending it, the said officer shall cause the same to be so sent through the Post Office by registered letter.

PART V.

MISCELLANEOUS.

Deposit of costs.

17. No order in any civil matter shall be made by a Court under any of the provisions hereinbefore contained until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court.

Provided that if upon any application for such order it appear to the Court to which the application is made that the applicant has not sufficient means to defray the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by Government from any person ordered by the Court to pay the same, as if it were costs of suit recoverable under the Code of Civil procedure.

Power to make rules.

18. It shall be lawful for the Local Government, and in cases arising under section eight, for the Governor-General of India in Council, to make rules consistent with this Act

(1) for regulating the escort of prisoners to and from the Court in which their presence is required;

(2) for regulating the amount to be allowed for the costs and charges of such escort; and

(3) for the guidance of officers in all other matters connected with the enforcement of this Act;

and from time to time to alter and add to the rules so made.

Publication of rules.

19. All such rules, alterations and additions shall be published in the official *Gazette*, and shall, from the date of such publication, be deemed to have the force of law.

Power to declare who shall be deemed officer in charge of jail.

20. The Local Government may also declare in each case what officer shall, for the purposes of this Act, be deemed to be 'the officer in charge of the jail.'

SCHEDULE A.

Court of

To the officer in charge of the (*state name of jail*)

You are hereby required to have the body of , now a prisoner in under safe and sure conduct before the at on the day of next by of the clock in the forenoon of the same day, there to give testimony in a cause now pending before [*or* in a certain charge or prosecution now pending before against *or as the case may be*] and after the said shall then and there have given his testimony before the said or the said shall dispense with his further attendance, cause him to be conveyed under safe and sure conduct back to the said jail.

day of

A. B.

(Countersigned) *C. D.*

SCHEDULE B.

Court of

To the officer in charge of the (*state name of jail*)

You are hereby required to have the body of , now a prisoner in under safe and sure conduct before the at on the day of next by of the clock in the forenoon of the same day, there to answer a charge now pending before and, after such charge shall have been disposed of or the said shall dispense with his further attendance, cause him to be conveyed under safe and sure conduct back to the said jail.

day of

A. B.

(Countersigned) *C. D.*

ACT No. XVI of 1869.

(*Received the assent of the Governor-General on the 23rd July* 1869.)

An Act to exclude the ordinary Civil Courts from the cognizance of suits relating to land in the Bhután Dvárs, and for other purposes.

Preamble.

WHEREAS it is expedient to exclude the ordinary Civil Courts from the cognizance of suits relating to immoveable property, revenue and rent in the territory ceded by the Government of Bhután to the British Government in the year 1866 and commonly known as the Bhután Dvárs; and whereas certain rules relating to immoveable property, revenue and rent in the said territory, and contained in the schedule to this Act, have been made by the Lieutenant-Governor of Bengal, and it is expedient that such rules should have the force of law; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Bhután Dvárs Act, 1869.

Abolition of Civil Courts' jurisdiction as to immoveables in the Dvárs.

2. The jurisdiction which the ordinary Civil Courts of Judicature have hitherto had and exercised in respect of suits (whether instituted before or after the passing of this Act) and other matters connected with immoveable property, revenue and rent in the said territory shall cease.

Jurisdiction by whom exerciseable.

3. Such jurisdiction shall be exercised by such officers and within such local limits as the Lieutenant-Governor of Bengal shall from time to time appoint in this behalf.

4. All original suits and appeals relating to immoveable property, revenue or rent in the said territory, now pending in the said Civil Courts, shall be transferred to and disposed of by such of the officers appointed under section three as the said Lieutenant-Governor shall direct in this behalf. Pending suits and appeals.

All suits and appeals so transferred shall be disposed of by the officer to whom they shall have been so transferred as if they had been originally instituted in or presented to his Court.

And all appeals hereafter presented from decrees or orders in original suits relating to such property, revenue or rent heretofore instituted shall (subject to the rules of limitation which would have been applicable thereto if this Act had not been passed) lie to such of the said officers as the said Lieutenant-Governor shall direct in this behalf.

5. The rules contained in the schedule to this Act shall be deemed to have the force of law. Validation of rule.

6. The said Lieutenant-Governor may from time to time make additional rules consistent with this Act and the schedule hereto for the guidance of officers in matters connected with the enforcement of this Act and the rules contained in the said schedule. Power to make additional rules.

Such additional rules shall be published in the *Calcutta Gazette*, and shall thereupon have the force of law.

SCHEDULE.

Rules relating to immoveable property, rent and revenue, in the Bhután Dvárs.

I. At a reasonable time, before any officer appointed under section 3 of the Bhután Dvárs Act, 1869, shall commence his enquiries in any Revenue Survey Circuit or other convenient tract of country, a notice shall be published in such tract calling on all interested in the suits and matters mentioned in section 2 of the said Act, to come forward and advance their claims and protect their interests before the said officer.

II. In the investigation of such suits and matters, the said officer shall be guided by the provisions of Regulation VII of 1822, and shall exercise all the powers conferred upon a Collector making a settlement of land revenue by that Regulation and all other Regulations and Acts amending the same, in addition to the powers vested in him by these rules.

III. The said officer shall make a record in such form as the Lieutenant-Governor may direct, of all rights, interests and other matters which he is empowered by these rules to investigate, ascertain, and determine.

IV. The said officer shall ascertain the position as to rights and interests connected with the soil which each person *bonâ fide* occupied before the state of things was affected by the Bhután war, and, subject to due regard for considerations of public policy, confirm him in that position; he shall take cognizance of, and decide, all disputes, conflicting claims, and doubtful questions which then existed; Provided that he shall not take cognizance of any right or interest which, being capable of exercise or assertion within twelve years before the date on which the Bhután Dvárs were transferred to the British Government, had not been exercised or asserted during the period.

V. As soon as the record of rights for any tract as mentioned in Rule III is completed, the said offices shall cause it to be published in the tract, and a second copy shall be open for inspection at his office, of which fact due notice shall be given.

VI. Within one month of such publication, any person who is dissatisfied with any entry in the record, which has not been adjudicated upon by the said officer, may present a petition to such officer, who shall thereupon proceed to try the questions in dispute.

VII. Any person aggrieved by any decision or order of the said officer may appeal by petition to the Commissioner of the Division, or to any other officer specially appointed by the Lieutenant-Governor to be a Commissioner in that behalf: Provided that such appeal be presented within three months of the date of the decision or order appealed against, unless sufficient cause for longer delay be shown the satisfaction of the Commissioner.

VIII. The said officer may, within one month of the passing of any decision or order by him, admit to review any such decision or order, and eventually amend,

vary, or correct the same : Provided that no appeal have been preferred against such order or decision to the appellate authority as defined in Rule VII.

IX. The appellate authority may, within one month of the passing of any decision or order by such appellate authority on appeal, admit to review any such decision or order.

X. No appeal shall lie as of right to any authority against any order passed by the appellate authority under these rules, but, notwithstanding anything to the contrary in these rules, the Lieutenant-Governor of Bengal may, if he think fit, alter, vary or annul any decision or order which may have been passed under these rules : Provided that an application in that behalf shall have been made before or within one month after the issue of the notification of confirmation of the record under Rule XI.

XI. When the record of any circuit or other tract, as mentioned in Rule III, shall have been finally revised and amended in accordance with all orders passed by the said officer or the Commissioner of the Division under these rules, the record shall be confirmed by an order of the Commissioner of the Division to be published in the *Calcutta Gazette.*

XII. From the date of the publication of such confirmation, the said record shall not be varied or altered otherwise than by an order of the Lieutenant-Governor under Rule X, and such record shall be conclusive evidence as to any right interest, or other matter which may be entered on it in accordance with the provisions of these rules.

ACT No. XVII. OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th August 1869.)

An Act to shorten the time for landing Cargo.

1. New sections substituted for sections 52, 53 and 54 of Act VI of 1863. Procedure in respect of goods not landed within time allowed. And in case of goods being landed in time, with exception of only a small quantity. Effect of not discharging cargo in any earlier period specified in the bill of lading.

2. This Act to be read with Act VI of 1863.

Preamble.

WHEREAS the Consolidated Customs' Act (No. VI of 1863), section fifty-two, provides that if the importer, owner or consignee of any goods (except as therein excepted), or his agent, shall not land such goods within fifteen working days after the entry of the vessel importing the same, or within such further period as the bill of lading of such vessel shall specify, the master or commander of the vessel, or the officers of customs on his application, may then carry such goods to the Custom House; And whereas it is expedient to shorten the period of fifteen working days so limited; It is hereby enacted as follows :—

New sections substituted for sections 52, 53 and 54 of Act VI of 1863.

I. Sections LII, LIII and LIV of the said Act are hereby repealed, and in lieu thereof the following shall be substituted :—

Procedure in respect of goods not landed within time allowed.

"LII. If the importer, owner or consignee of any goods (except such as shall have been declared by the master or commander as not to be landed), or the agent of such importer, owner or consignee, shall not land such goods within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same as the Local Government shall from time to time appoint by notification in the official Gazette, or within such further period as the bill of lading of such vessel shall specify,

the master or commander of the vessel, or the officers of customs on his application, may then carry such goods to the Custom House.

The officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods;

and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average or other charges of a stated amount, he shall hold such goods until the said charges shall be paid.

And in case of good being landed in time, with exemption of only a small quantity.

"LIII. If the cargo of any vessel, with the exception of a small quantity only of goods, shall have been landed within the period so appointed, or such further period as the bill of lading shall specify, the officers of customs may, on the application of the master or commander of such vessel, direct that such remaining goods shall forthwith be carried in like manner to the Custom House.

Effect of not discharging cargo in any earlier period specified in the bill of lading.

"LIV. If any period earlier than the number of working days so appointed is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner or consignee of such cargo, or his capable of t.land the same within such specified period, the master or comman- Bhután Dvárs were the officers of customs on his application, may then carry or asserted during t.tom House.

V. As soon as arge of the Custom House shall thereupon take charge of completed, the said ottic goods;

copy shall be open for ng shall have been given that the goods are to remain given. primage, general average or other charges of a stated

VI. Within one 1 goods until the said charges shall be paid."

This Act to be read with Act VI of 1863.

with any entry in shall be read with and taken as part of The Consolidated Act.

THE GENERAL STAMP ACT, 1869.

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ACT No. XVIII. OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 13th August* 1869.)

An Act for imposing Stamp Duties on certain Instruments.

CHAPTER I.

PRELIMINARY.

I. This Act may be called 'The General Stamp Act, 1869.' — Short title.
It extends to the whole of British India. — Extent of Act.

Commencement of Act.

And it shall come into force on the first day of January 1870.

II. *Repealed by Act XIV of 1870.*

Interpretation-clause.

III. In this Act and the first and second schedules hereto annexed, unless there be something repugnant in the subject or context—

(1.) 'Affidavit' includes every declaration in writing, on oath or affirmation, made before a person authorized by law to administer an oath :

(2.) 'Award' includes every decision in writing, by an arbitrator or umpire :

(3.) 'Bill of Exchange' includes a hundí and every other instrument (except a cheque) whereby a person is ordered to pay another a specified sum of money :

(4.) 'Bill of Lading' includes every instrument signed by the owner of a ship or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver them at a port and to a person therein mentioned or indicated :

(5.) 'Bond' includes every instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be :

(6.) 'Bottomry-bond' includes every instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to prosecute her voyage.

(7.) 'Charter-party' includes every instrument (except an agreement for the hire of a tug steamer) whereby a ship or some principal part thereof is let for the specified purposes of the charterer :

(8.) 'Cheque' includes every instrument whereby a bank, banker, or person acting as a banker, is ordered to pay on demand a specified sum of money ;

(9). 'Collector' means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras or Bombay, and, without those limits, the Collector of a District, and includes Deputy Commissioner or any officer having jurisdiction equivalent to that of a Collector of a District :

(10.) 'Composition-deed' includes every instrument executed by a debtor, whereby the debtor conveys his property for the benefit of his creditors, or whereby payment of a Composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors :

(11.) 'Conveyance' means any instrument (except a transfer of a share in a Company or Association, a mortgage-deed, a settlement, a lease, an instrument of reconveyance of mortgaged property, a composition-deed, an instrument of gift, or an instrument of exchange or partition-deed, where no money is paid for equality of exchange or partition) by which property is conveyed *inter vivos* :

(12.) 'Counterpart' means the duplicate of a conveyance, settlement, mortgage-deed or lease, such duplicate not being executed by the grantor, settlor, mortgagor or lessor, but by some other party to the instrument : it includes a kabúliyát in cases where a lease has been granted :

(13.) 'Dock-warrant' includes every instrument evidencing the title of any person therein named or his assign, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the company or person in whose custody such goods may be :

(14.) 'Impressed' includes 'printed' and 'lithographed :'

(15.) 'Lease' includes every instrument (not being a counterpart) by which one person lets or agrees to let, or takes or agrees to take, immoveable property to or from another :

(16.) 'Letter of Credit' includes every instrument by which one person requests another to give credit to the person in whose favour it is drawn :

(17.) 'Letter of License' includes every agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion :

(18.) 'Mortgage-deed' includes every instrument evidencing a pledge of property for securing the payment of money :

(19.) 'Negotiable instrument' includes Bills of Exchange, Promissory Notes and Cheques :

(20.) Notarial act' means any instrument, endorsement, note or entry made or signed by a Notary Public in the execution of the duties of his office, and includes every like instrument, endorsement, note or entry made or signed by a consul, attorney, or other person authorized by law to act as a Notary Public :

(21.) 'Paper' includes vellum, parchment or any other material on which an instrument may be written :

(22.) 'Partition deed' means any instrument whereby persons interested in immoveable property jointly, or in common, or as co-parceners, or as members of

an undivided Hindú family, divide or agree to divide such property in severalty, and includes a batwárá :

(23.) 'Policy of insurance' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event : it does not include a policy on life :

(24.) 'Power of Attorney' includes every instrument (except a proxy) empowering a person to act in the stead of the person executing it :

(25.) 'Promissory Note' includes every instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight :

(26.) 'Property' means property being in British India :

(27.) 'Protest' means a declaration in writing made by a Notary Public, or other person authorized to act as such, attesting the dishonour of a Bill of Exchange or Promissory Note :

(28.) 'Protest of the Master of a ship' includes every declaration of the particulars of her voyage, drawn up by him with a view to the adjustment of losses, or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship :

(29.) 'Proxy' means an instrument whereby a person authorizes another to vote for him at a meeting :

(30.) 'Release' includes every instrument whereby a person renounces a claim upon another person or against any specified property :

(31.) 'Respondential-bond' includes every instrument securing a loan on the cargo laden or to be laden on board a ship, and making repayment contingent on the arrival of the cargo at the port of destination : and

(32.) 'Settlement' means any instrument (other than a Will) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled.

CHAPTER II.

STAMP-DUTIES CHARGEABLE UNDER THIS ACT.

Scheduled duties chargeable.

IV. For every instrument mentioned in the first and second schedules hereto annexed and executed in British India on or after the first day of January 1870,

or executed out of British India on or after that day, but relating to any property within British India,

there shall be payable to the Government of India, as stamp-duty, the amount indicated in the first or second schedule hereto annexed, to be the proper duty for such instrument.

Duties how levied.

By adhesive stamps.

V. *(a)*.—All instruments chargeable under this Act with the duty of one anna, bills of exchange and promissory notes drawn or made out of British India, and transfers by endorsement of shares of Companies and Associations may (subject to the provisions hereinafter contained) be stamped with adhesive stamps.

By impressed stamps.

(b).—The stamp on every other instrument chargeable under this Act shall either be impressed on the paper whereon the instrument is written or be otherwise denoted by the Collector or the Superintendent of Stamps in accordance with such rules as the Governor-General of India in Council may from time to time prescribe in this behalf.

Duties by whom payable.

VI. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

1st. In the case of any instrument mentioned in the first schedule to this Act (other than a policy of insurance, a mortgage-deed, a settlement, a conveyance, a lease, an instrument of exchange or partition-deed where money is paid for equality of exchange or partition, an appraisement or valuation, an award and a copy, duplicate or extract), by the person drawing, making, or executing such instrument :

2nd.—In the case of a policy of insurance by the insured :

3rd—In the case of a settlement, by the settlor :

4th.—In the case of a conveyance, mortgage-deed or lease, by the grantee, mortgagor or lessee.

5th.—In the case of a counterpart of a lease, by the lessor :

6th.—In the case of a partition-deed, by the parties thereto in proportion to their respective shares in the property comprised therein : and

7th.—In the case of an exchange where money is paid for equality of exchange, by the person paying such money.

Duties on bills of exchange.

VII. The duty imposed by this Act on bills of exchange shall be chargeable (*a*) on all bills drawn and payable in British India, (*b*) on all bills drawn in, but payable out of British India, and (*c*) on all bills drawn out of, but accepted, or paid, or endorsed, transferred, or otherwise negotiated within, British India.

Bills drawn out of British India.

VIII. The holder of any bill of exchange or promissory note drawn or made out of British India, and not stamped as required by this Act, shall, before he presents the same for acceptance or for payment, or endorses, transfers, or otherwise negotiates such bill or note, affix thereto the proper adhesive stamp or stamps for denoting the duty with which it is chargeable under this Act.

Instruments reserving interest.

IX. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with a duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Consideration expressed in foreign currency.

X. When the consideration set forth in or the amount secured by any instrument chargeable under this Act is expressed in pounds sterling, pounds currency, francs or dollars, such consideration or amount shall, for the purposes of this Act, be estimated according to the following scale :—

One pound of sterling or pound currency is equivalent to ten rupees.

One hundred francs are equivalent to forty rupees.

One Mexican or China dollar is equivalent to two rupees four annas.

One Mauritius dollar is equivalent to two rupees.

Optional stamps where value of subject-matter is indeterminate.

XI. When the amount or value of the subject-matter of any bond, mortgage-deed or settlement chargeable under this Act with an *ad valorem* stamp-duty and referred to or mentioned in section six, cannot be ascertained, the proper stamp to be borne by such instrument may be determined by the person bound under that section to bear the expense of providing the stamp :

Provided that, under such instrument, nothing shall be recoverable more than the highest amount or value for which, if stated in an instrument of the same denomination, the stamp actually used under such option would have been sufficient.

Bond, &c., for payment of annuity.

XII. The whole amount secured for the payment of an annuity, or other sum payable periodically for an indefinite time, by a bond, promissory note, or mortgage-deed shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Consideration an annuity.

Where the consideration for a conveyance is an annuity or other sum payable periodically for an indefinite time, such consideration shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Several instruments used in a single transaction.

XIII. Where more instruments than one are required for the completion of any transaction involving the execution of a mortgage-deed, settlement conveyance or lease, the proper stamp required by this Act for such mortgage-deed, settlement, conveyance, or lease, shall be borne by the principal instrument executed in such transaction, and each of the other instruments shall bear a stamp of one rupee.

The parties may determine for themselves which of such instruments shall for the purposes of this section be deemed to be the principal instrument : Provided that, where the instruments are liable to different rates of duty under this Act, the instrument liable to the highest of such rates shall be deemed to be the principal instrument.

Instruments coming within two or more of the definitions in section 3.

XIV. An instrument so framed as to come within two or more of the definitions in section three shall, when the instruments to which those definitions apply are liable to different rates of duty under this Act, be charged with the highest of such rates :

Provided that when any one instrument purports, for distinct considerations, to convey by way of sale, to lease, to give, or to mortgage two or more subject-matters,

or to convey by way of sale, to lease, or to give one subject-matter and to mortgage another,

such instrument shall be chargeable with the aggregate amount of the duties to which instruments effecting separately each of such conveyances, leases, gifts, or mortgages would be liable under this Act.

Instruments exempt from duty.

XV. Nothing in this Act shall render the following instruments chargeable with duty :—

(1). Receipt or discharge granted to a cultivator for the rent of land paying revenue to Government, or (in the Presidencies of Madras and Bombay) of inám lands.

(2). Receipt given for money or securities for money deposited in any bank or in the hands of any banker or person acting as a banker to be accounted for :

Provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for;

Provided further, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share or in respect of a call upon any scrip or share of or in any company or Association or proposed or intended Company or Association.

(3.) Receipt or discharge endorsed on or contained in any instrument duly stamped according to the law in force of British India at the date of its execution, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money, interest or annuity or other periodical payment, thereby secured.

(4.) Transfer by endorsement of a negotiable instrument or a policy of marine insurance or of insurance against fire.

(5.) Letters of hypothecation accompanying a bill of exchange.

(6.) Transfers of securities of the Government of India.

(7.) Bond to Government for the due performance of the duties of any salaried office.

(8.) Agreement or memorandum of an agreement for or relating to the sale of goods or merchandize.

(9.) Lease granted to a cultivator, unless a fine or premium be paid in consideration of such lease.

(10.) Counterpart of such lease.

(11.) Surrender of land executed by a cultivator to his landlord.

(12.) Affidavit made for the sole purpose of enabling any person to receive any pension or charitable allowance.

(13.) Copy of any paper which a public officer is by law required to make or furnish in his official capacity.

(14.) Copies made for the private use only of any person having the custody of the original instrument or of his counsel, attorney or vakil.

(15.) Receipt or other instrument executed by or on behalf of Government, in cases where the Government would, but for this exemption, be liable to pay for the stamp thereon.

(16.) Letter of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy of insurance, nothing shall be recoverable there-under, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

Power to lower rates of stamp-duty.

XVI. The Governor General of India in Council may, from time to time, by order published in the *Gazette of India*, reduce or remit in the whole or any part of British India, the duties chargeable under this Act on all or any of the instruments mentioned in the first and second schedules hereto annexed, or on any particular class of such instruments, or on any of the instruments belonging to such class, or on any of the instruments mentioned in the said schedules when executed or granted by or to any particular class of persons, or by or to any members of such class,

and may in like manner cancel or vary such order to the extent of the powers hereby given.

Every such cancelment or variation shall be published in the *Gazette of India*.

Saving of judicial stamp-duties.

XVII. Nothing in this chapter or in the schedules hereto annexed, shall be deemed to affect the stamp-duties chargeable under Act No. XXVI of 1867, section six, or under any other enactment relating to stamps used in judicial proceedings.

CHAPTER III.

UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS

Instruments not duly stamped inadmissible in evidence.

XVIII (*a*).—No instrument chargeable with stamp-duty shall be received in any court of justice, or by any person having by law or consent of parties authority to receive evidence, as creating, modifying, transferring or extinguishing, or purporting to create, modify, transfer or extinguish, any right or obligation,

or as evidence in any civil proceeding,

or shall be acted upon in any such court, or by any such person as aforesaid, or by any public officer,

or shall be registered by any officer acting under any law for the registration of assurances or in any public office,

or shall be authenticated by any public officer,

unless such instrument bears a stamp of a value not less than the amount of the duty with which it is chargeable under the law in force in British India at the time of its execution.

Except in criminal proceedings.

(*b.*)—Every instrument chargeable with stamp-duty shall be admitted in evidence in any criminal proceeding (other than proceedings under chapter XXII of the Code of Criminal Procedure), although it may not have the stamp required by law impressed thereon or affixed thereto.

Foreign bill unstamped or with stamp uncancelled.

XIX. Subject to the provisions contained in section twenty-six no person taking a bill of exchange or promissory note requiring a stamp under section eight either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose, unless at the time when he so takes it, the proper stamp is affixed thereto and cancelled in manner directed by this Act.

Powers of civil courts as to unstamped or insufficiently stamped instruments.

XX. When any instrument chargeable with stamp-duty executed on paper not bearing the stamp required by the law in force in British India at the time of its execution is produced in a Civil Court, the Court, if satisfied that the omission to execute such instrument on paper bearing the proper stamp, did not arise out of any intention to evade payment of the proper duty, and on payment of such duty, or, in the case of an insufficiently stamped instrument, of the sum required to make up the full amount chargeable on such instrument,

Penalty.

together with a penalty of the following amount (that is to say) :

If the instrument is produced within one year from the date of its execution, five times, or if it is produced after one year from such date, twenty times, such proper stamp-duty or deficient portion thereof as aforesaid,

shall certify by endorsement on such instrument that the proper stamp-duty has been levied thereon :

Provided that no such penalty shall exceed one thousand rupees.

Such certificate shall be conclusive evidence as to the amount of stamp-duty leviable on such instrument, and the said instrument shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

Registration of payments and penalties levied by civil Courts.

XXI. (*a.*)—An entry of every such payment showing the amount thereof shall be made in a book to be kept by the Court, and shall also be endorsed on the instrument in respect of which the payment is made, and such endorsement shall be signed by the presiding officer.

Returns to Collector.

(*b.*)—The Court shall at the end of every month make a return to the Collector of the money (if any) which it has so received, distinguishing between the sum received by way of penalty and the sums received by way of duty, stating the number and title of the suit, the name of the party from whom the money was received, and the date (if any) and description of the instrument.

Payments to Collector.

(*c.*)—The Court shall pay over all money so received to the Collector or to such person as he may from time to time appoint to receive the same.

Impounding unstamped instruments in civil or criminal court.

XXII. If it appear to a Civil or Criminal Court that any instrument filed or exhibited in such Court was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the stamp-duty required by the law in force in British India at the time of its execution, the Court may impound the instrument and send it to the Collector, and he shall thereupon prosecute the offender.

Impounding unstamped instruments in public office.

XXIII. When any instrument is produced before any registering officer, or in any public office other than a Civil or Criminal Court, if it appear to the registering officer or to the head of such public office that the instrument is chargeable with stamp-duty under the law in force in British India at the time of its execution, but that it does not bear a stamp of a value equal to or exceeding the value of the stamp prescribed therefor by that law, he shall impound the instrument and send it forthwith to the Collector.

Powers of Collector as to unstamped or insufficiently stamped instruments.

Prosecution.

XXIV. (*a.*)—When any instrument is produced before the Collector otherwise than for the purpose of obtaining an adjudication under section [illegible] or has been sent to him under section twenty-three, he shall either proceed in accordance with the provisions of section twenty, exercising the powers thereby conferred on a Civil Court ; or if it appear to him that the instrument was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the proper stamp-duty, he shall prosecute all the persons that have executed the said instrument or such of them as to him may seem fit ;

or if it appear to him that the instrument is properly stamped, or that it is not chargeable with stamp-duty under the law in force in British India at the time of its execution, he shall certify by endorsement thereon that it is properly stamped, or that it is not so chargeable (as the case may be) ; and he shall thereupon return such instrument to the registering or other public officer by whom it was sent, or to the person by whom it was produced, and, subject to the provision contained in section forty, it shall be deemed to be properly stamped or not chargeable (as the case may be):

(*b.*)—Provided that, in any case coming under this section, if the instrument is brought within one year from the date of its execution to the Collector, or other public officer by whom it has been sent to the Collector under section twenty-three, and if the Collector is satisfied that such instrument has not been duly stamped previously to being signed or executed by reason of accident, mistake, inadvertence or urgent necessity, he may remit the whole or any part of the penalty prescribed by section twenty :

Remission of penalty.

(*c.*)—Provided also that, in any case coming under this section in which an instrument, other than a bill of exchange or promissory note, purports to have been executed out of British India, if the Collector is satisfied that the instrument was so executed, and also that it has been brought to him within the three months next after its arrival in Britsh India, he shall, on payment of the duty with which such instrument would have been chargeable if executed in British India, certify by endorsement thereon that the proper stamp-duty has been levied upon it.

(*q.*) Subject to the provision contained in section forty, such certificate shall be conclusive evidence of the amount of stamp-duty leviable on the instrument, which shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

XXV. When the Collector elects to proceed under section twenty, he shall (if he imposes a penalty), after endorsing on the instrument the certificate thereby directed, or (if he remits the whole of the penalty) after endorsing on the instrument a certificate to that effect, return such instrument to the registering or other public officer by whom it was sent or to the person by whom it was produced.

Validity of instrument for which Collector levies penalty.

Subject to the provision contained in section forty, the said instrument shall thereupon be, and be deemed to have been, as valid as if it was originally executed on paper bearing the proper stamp.

In case any instrument sent or returned under sections twenty- two, twenty-three, or twenty-four, or the former part of this section, be lost, destroyed or injured during transmission, the Court or officer sending or returning the same shall not be liable for such loss, destruction or injury.

Loss of intruments sent under sections 22, 24 or 25.

XXVI. (*a.*)—When any bill of exchange, promissory note, cheque or order for the payment of money on demand by any banker or person acting as a banker, chargeable hereunder with the duty of one anna, comes to his hands unstamped, he may affix thereto the necessary adhesive stamp, and cancel the same in the manner required by this Act, and upon so doing, may charge the duty aginst the person who ought to have paid the same, or deduct such duty from the sum so directed to be paid.

Power to stamp instruments chargeable with one anna.

(*b.*)—Such bill, note, cheque, or order shall, so far as relates to the stamp duty chargeable thereon, be valid; but this shall not relieve any person or firm from liability to the penalty which he or it may have incurred by issuing or giving the said bill, note, cheque, or order unstamped.

XXVII. (*a.*)—Any person, or the agent of any person, from whom money exceeding in amount twenty rupees is due or claimed to be due, and who shall have paid such money may provide a piece of paper with an adhesive stamp of one anna affixed thereto, and may require of the person entitled to such money, or any agent to whom the same shall have been paid, a receipt for such money and also the value of the said stamp.

Procedure where receipts are required.

(*b.*)—If any one to whom money shall have been so paid refuse to give such receipt upon demand thereof, or to pay the value of the said stamp thereon, he shall be liable for every such offence to a fine not exceedng one hundred rupees.

Refusal to give receipts.

XXVIII. Except as provided in sections eight and twenty-six, no stamp shall be affixed to, or impressed on, any bill of exchange, or promissory note, or any instrument chargeable hereunder with the duty of one anna, subsequent to the execution thereof, nor shall the provisions of sections twenty and twenty-four apply to such instrument.

After-stamping when inadmissible.

CHAPTER IV.

CRIMINAL PENALTIES.

XXIX. Any person or firm making, signing or issuing or, except as provided in section twenty-six, accepting, endorsing, paying or receiving payment of any bill of exchange, promissory note, cheque or other similar instrument liable to any of the duties hereby imposed, without the same being duly stamped,

Penalty for executing instrument on paper not duly stamped.

and any person making, executing or signing otherwise than as a witness any other instrument liable to snch duties without the same being duly stamped,

shall, for every such offence, be liable to fine not exceeding one hundred rupees.

or, if ten times the value of the proper stamp exceeds one hundred rupees, to fine not exceeding ten times such value,

or, where an insufficient stamp has been used, if ten times the deficient amount exceeds one hundred rupees, to fine not exceeding ten times such amount.

Penalty for presenting, &c., unstamped foreign bills or notes.

XXX. Any person or firm presenting for acceptance or for payment, or accepting, paying, endorsing, transferring or in any manner negotiating any bill of exchange or promissory note drawn or made out of British India whereon there is not such stamp as is required by this Act, shall be liable for every such offence to fine not exceeding one hundred rupees.

Cancelling stamps on foreign bills by holder.

XXXI. Any person or firm presenting for acceptance or payment a bill of exchange or promissory note to which an adhesive stamp has been affixed under section eight.

and any person or firm endorsing, transferring, or in any manner negotiating such bill or note,

shall, before delivering the same out of his or its hands, custody or power, cancel the stamp so affixed,

in such manner as to show that the stamp has been made use of, and so that the same shall not admit of being used again.

Penalty for failure to cancel such stamps.

Any person or firm who or which ought, as directed by this Act, to cancel such stamp in manner aforesaid, and refusing or neglecting so to do, shall be liable for every such offence to fine not exceeding one hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

XXXII. Any person or firm drawing or executing within British India a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped as required by this Act the whole number of bills or policies of which such bill or policy purports the set to consist, shall, for every such offence, be liable to fine not exceeding one thousand rupees.

Cancellation of adhesive stamp by maker or executant.

XXXIII. Whenever an adhesive stamp is used as hereinbefore authorized, the person making or executing the instrument to which such stamp is affixed shall before delivering the instrument out of his hands, custody or power, cancel the stamp so used so that it cannot be used again.

Penalty for failure to cancel such stamps.

Any person making or executing such instrument and failing to cancel the stamp affixed thereto in manner aforesaid shall, for every such offence, be liable to fine not exceeding one hundred rupees.

Consideration to be stated.

XXXIV. (*a.*)—When any moveable or immoveable property is sold, the full consideration-money directly or indirectly paid or secured, or agreed to be paid or secured, for the same, shall be truly set forth in words at length in the principal or only instrument whereby the property sold is conveyed to, or vested in, the purchaser or in any other person by his direction.

Mortgage-money to be deemed purchase-money.

(*b.*)—When any property is sold and conveyed subject to any mortgage or bond or other debt, or to any gross or entire sum of money, such debt or sum shall be deemed the consideration-money or part of the consideration-money (as the case may be) in respect whereof the duty chargeable under the first schedule to this Act shall be paid,

notwithstanding the purchaser is not or does not become personally liable for such debt or sum,

or does not agree to pay the same or to indemnify the seller against the same.

Penalty for not stating consideration.

(*c.*)—If the full consideration-money is not set forth as aforesaid, the purchaser and the seller shall each be liable to fine not exceeding five hundred rupees, and shall also pay a fine of five times the amount of the excess of duty with which such instrument would have been chargeable under this Act, if the full consideration-money had been duly set forth in such instrument, in addition to the duty actually paid for the same.

Penalty on attorneys, &c., not inserting true consideration.

XXXV. Any attorney, vakil, pleader, mukhtár or other person employed in or about the preparing of instrument in or upon which the full consideration-money is hereby required to be truly set forth,

or employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned,

who knowingly inserts or sets forth, or causes to be inserted or set forth, in or upon any such instrument any other than the full consideration-money,

shall, for every such offence, pay a fine not less than five hundred rupees and not exceeding five thousand rupees.

Every attorney, vakil, pleader and mukhtàr convicted under this section shall, from the date of such conviction, be disabled to practise as an attorney, vakil, pleader or mukhtàr :

Provided that no person shall be liable to any penalty or disability under this section, unless the duty actually paid for the instrument is less than would have

been payable for the same in case the consideration-money had been truly set forth as aforesaid.

XXXVI. Whoever abets within the meaning of the Indian Penal Code any offence made punishable by this Act shall be punished with the punishment hereinbefore provided for such offence. Abetment.

XXXVII. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being. Recovery of fines.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm, or to all or any of the members thereof.

XXXVIII. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half to the person on whose information the offender has been convicted. Reward to informers.

CHAPTER V.

JURISDICTION.

XXXIX. When any instrument chargeable with stamp-duty under this Act, whether previously stamped or not, is brought to the Collector, and the person bringing it desires to have the opinion of that officer as to the duty with which it is so chargeable, and pays a fee of five rupees, the Collector shall assess and charge the duty to which, in his judgment, the instrument is liable; and upon payment of such duty or of such a sum as, with the duty already paid thereon, is equal to the duty so assessed and charged, and of the penalty, if any, incurred through the instrument having been executed on insufficiently stamped paper, shall certify by endorsement on such instrument that the full duty with which it is chargeable under this Act has been paid. Abjudication of doubt as to proper stamp.

The instrument shall thereupon be deemed to be duly stamped and shall be receivable in evidence or otherwise in all courts and public offices as if originally executed on paper bearing the proper stamp:

Provided that nothing contained in the former part of this section shall authorize the Collector to make any such endorsement on bills of exchange, promissory notes or instruments chargeable with the stamp-duty of one anna when brought to him on unstamped or insufficiently stamped paper subsequent to the drawing or execution thereof.

XL. All certificates and orders of the Collector under this Act shall be open to revision on appeal or otherwise by the chief controlling Revenue Authority to which the Collector is subordinate: Revision of Collector's certificates and orders.

Provided that no order passed on such revision shall invalidate any registration or other proceeding previously made or taken of or upon an instrument endorsed by the Collector under section twenty-four or section twenty-five.

XLI. (*a.*)—The chief controlling Revenue Authority may state any case coming before it under this Act and refer such case with its own opinion thereon, if the case arise in the Presidency of Fort Saint George or the Presidency of Bombay, to the local High Court, and if it arise in ony other part of British India, to the High Court at Fort William. Reference to High Court.

(*b.*)—Every such case shall be decided by at least three Judges of the High Court to which it is referred, and in case of difference the opinion of the majority shall [illegible]

[illegible] the High Court is not satisfied that the statements contained in the [illegible] sufficient to enable it to determine the questions raised thereby, the [illegible] may refer the case back to the Revenue Authority by which it was stated, to [illegible] such additions thereto or alterations therein as the Court may direct in that behalf.

(*d.*)—The High Court upon the hearing of any such case shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Revenue Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving the same, dispose of the case conformably to such judgment.

XLII. The chief controlling Revenue Authority may, upon petition, remit wholly or in part any penalty imposed under this Act. Power to remit penalties.

XLIII. All prosecutions in respect of any offence punishable by this Act, shall be instituted and conducted by the Collector or such other officer as the Local Government generally or the Collector specially authorizes in that behalf. Institution and conduct of prosecutions.

Jurisdiction of Magistrate.

XLIV. Offences punishable under this Act may be tried within the limits of the towns of Calcutta, Madras and Bombay by a Magistrate of Police, and beyond those limits by the Magistrate of the District or a person exercising the powers of a Magistrate (as defined in the Code of Civil Procedure) or of a Subordinate Magistrate of the first class:

Provided that, in imposing penalties under this Act, no such person shall exceed the limits of jurisdiction prescribed for him by the said Code.

CHAPTER VI.

MISCELLANEOUS.

Refund in case of useless or spoiled stamped paper.

XLV. If any person possessing any stamped paper which has been obtained in the manner allowed by this Act or Act No. X of 1862 (*to consolidate and amend the law relating to stamp duties*), or any paper on which the stamp has been denoted by the Collector or the superintendent of Stamps, does not require the same for use,

or if the paper so possessed becomes spoiled or unfit for use as hereinafter mentioned,

the Collector of the District in which the paper has been purchased may, upon application made to him within one year after such purchase, and upon delivery to him of such paper, refund the amount paid to Government for the same, whether by the applicant or any other person;

or in case the owner of the paper spoiled or unfit for use, desires to be supplied with stamped paper of similar or equal value, the Collector may cause such paper to be delivered to him or his agent upon payment of the value of the paper on which the new stamp or stamps shall be impressed;

When stamped paper shall be held to be spoiled.

XLVI. Stamped paper and paper on which the stamp has been denoted by the Collector or the Superintendent of Stamps, shall be held to be spoiled or unfit for use within the meaning of section forty-five when—

by accident happening to the same before any writing thereupon has been finally signed and executed, it is rendered unfit for use;

or when, because of some error in the drawing up or copying of any writing thereon, discovered before such writing has been finally signed and executed, it is rendered of no avail;

or when, by reason of death or refusal of the party whose signature may be necessary to effect the transaction intended by such writing, it remains incomplete and of no avail;

or when, by refusal of any office or trust granted by a writing thereon, it has failed of the purpose intended;

or when, by reason of failure of consideration, the transaction intended to be effected or evidenced by a writing thereon cannot be effected or evidenced;

or when the transaction intended to be effected by a writing thereon has been effected by some other instrument duly stamped;

or when, in the case of a negotiable instrument, such instrument is, by reason of non-delivery to the payee or person acting in his behalf, or other cause, never brought into use;

or when, in the case of a bill of exchange other than a bill drawn in a set, it has not been presented for acceptance or payment.

Suit where consideration is not stated.

XLVII. Where in case of a sale, or an exchange upon which money is paid for equality of exchange, or a lease for premium, the full consideration-money is not truly set forth in the manner hereby directed, the purchaser, or the person paying money for equality of exchange, or the lessee (as the case may be), or his representative in interest, may sue for and recover back from the seller, or the person receiving such money, or the lessor (as the case may be), or his representative in interest, so much of the consideration-money as is not set forth as aforesaid, or the whole thereof, if no part of the same is so set forth;

and in such suit, notwithstanding anything hereinbefore contained, the conveyance, instrument of exchange, or lease shall be admissible in evidence.

Power to make rules for sale of stamps.

XLVIII. Every Local Government shall frame rules for regulating the sale of stamps and stamped paper required by this Act or by Act No. XXVI of 1867 (*to amend the law relating to stamp duties*) for determining the persons by whom such sale is to be conducted, and for fixing the remuneration of such persons within the territories subject to its control; and may from time to time alter and add to such rules.

Approval and publication of rules.

Such rules, alterations and additions shall, when approved by the Governor-General of India in Council, and after publication in the local official Gazette, have the force of law.

Any person appointed to sell such stamps and stamped paper, who knowingly disobeys any such rule, shall be punished with simple imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both. *

Penalty for disobeying rules.

XLIX. When an impressed stamp is used under section five to denote the amount of duty with which any instrument is chargeable, such amount shall be denoted by a single stamp, except when such amount exceeds one thousand rupees, in which case it may be denoted by two or more impressed stamps of which the aggregate amount is the amount so required :

Employment of single impressed stamp.

Provided that, when a single impressed stamp of any amount less than one thousand rupees is not procurable on application to the Collector or stamp vendor appointed under section forty-eight, it shall be lawful, on such officer making a certificate to that effect, for the person requiring such stamp to denote the amount by two or more impressed stamps, of which the aggregate amount is the amount so required.

L. When more stamped papers than one are used under section forty-nine for an instrument chargeable with stamp-duty under this Act, each paper so used shall contain a part of the instrument.

Employment of several stamped papers.

LI. Every Local Government shall cause this Act and the schedules hereto, annexed to be carefully translated into the principal vernacular languages of the territories subject to its control.

Act to be translated, indexed and sold cheaply.

A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

* *See* Section 34 Act VII. of 1870, which amends this Section.

SCHEDULE I.

Instruments chargeable with ad valorem Stamp-duties.

Description of Instruments.		Proper Stamp-duty. If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
		Rs. A. P.	Rs. A. P.	Rs. A. P.
1. Bill of Exchange Payable otherwise than on demand ...	When the amount of the bill or note does not exceed Rs. 100	0 1 0	0 1 0	0 1 0
	And when the amount exceeds Rs. 100 but does not exceed Rs. 200 ...	0 2 0	0 1 0	0 1 0
	Ditto Rs. 200 ditto „ 300 ...	0 3 0	0 2 0	0 1 0
	Ditto „ 300 ditto „ 600 ...	0 6 0	0 3 0	0 2 0
	Ditto „ 600 ditto „ 900 ...	0 9 0	0 5 0	0 3 0
	Ditto „ 900 ditto „ 1,200 ...	0 12 0	0 6 0	0 4 0
2. Promissory Note Payable otherwise than on demand ...	Ditto „ 1,200 ditto „ 1,500 ...	0 15 0	0 8 0	0 5 0
	Ditto „ 1,500 ditto „ 2,500 ...	1 8 0	0 12 0	0 8 0
	For every Rs. 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000	1 8 0	0 12 0	0 8 0
	For every Rs. 5,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000	3 0 0	1 8 0	1 0 0
	And for every Rs. 10,000 or part thereof in excess of Rs. 30,000	6 0 0	3 0 0	2 0 0

		If drawn singly.	If drawn in duplicate, then for each part.
		Rs. A. P.	Rs. A. P.
3. Policy of Insurance ...	When the amount insured does not exceed Rs. 1,000	0 4 0	0 2 0
	And for every further sum of Rs. 1,000 insured or for every part thereof ...	0 4 0	0 2 0

		Proper Stamp-duty.
		Rs. A. P.
4. *Transfer of a Share in a Company or Association ...	When the amount paid for such share does not exceed Rs. 100	0 4 0
	For every Rs. 100 of such amount or part thereof in excess of Rs. 100 up to Rs. 1,000	0 4 0
	And for every Rs. 500 of the same or part thereof in excess of Rs. 1,000 ...	[illegible]
5. Bond for any specified amount, other than an Administration Bond ...	When the amount secured does not exceed Rs. 25	[illegible]
	When such amount exceeds Rs. 25 but does not exceed Rs. 50	[illegible]
	Ditto Rs. 50 ditto „ 100	0 8 0
6. Bottomry-Bond ...	For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000 ...	0 8 0
	Do. Rs. 500 do. Rs. 1,000 do. Rs. 10,000	2 8 0
7. Respondentia-Bond ...	Do. „ 1,000 do. „ 10,000 do. „ 30,000	2 8 0
	And for every Rs. 10,000 or part thereof in excess of Rs. 30,000	12 8 0
8. Customs-Bond ...	(*a*). When the amount secured does not exceed Rs. 1,000	The stamp-duty with which a Bond for such amount is chargeable (No. 5).
	(*b*). When such amount exceeds Rs. 1,000	Five Rupees.

NOTE.—The stamp-duty chargeable on the instrument marked* may be denoted by an adhesive stamp when the transfer is made by endorsement.

SCHEDULE I—*(continued)*.

Instruments chargeable with ad valorem Stamp-duties.

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
9. INDEMNITY-BOND	(*a*). When the amount secured does not exceed Rs. 3,000	The stamp-duty with which a Bond for such amount is chargeable (No. 5).
	(*b*). When such amount exceeds Rs. 3,000 or is not expressed ...	Sixteen Rupees.
10. MORTGAGE-DEED, when Possession of the Property comprised therein is not given by the Mortgagor at the time of execution ...	... ...	The stamp-duty with which a Bond for the amount secured is chargeable (No. 5).
11. INSTRUMENT OF FURTHER CHARGE on such Property, whether by Indorsement or otherwise ...		
12. BOND OR MORTGAGE-DEED for the due execution of an office, or to account for Money received by virtue thereof ...	(*a*). When the amount secured does not exceed Rs. 3,000	The stamp-duty with which a Bond for such amount is Chargeable (No. 5).
	(*b*). When such amount exceeds Rs. 3,000 or the amount is not expressed	Sixteen Rupees.
13. ASSIGNMENT OF ANY INTEREST SECURED BY A BOND OR MORTGAGE-DEED ...	(*a*). When the amount of such interest does not exceed Rs. 3,000 ...	The stamp-duty with which a Bond for such amount is chargeable (No. 5.)
	(*b*). In any other case	Sixteen Rupees.
14. SETTLEMENT ...	... ...	The stamp-duty with which a Bond for the amount or value of the property thereby settled is chargeable (No. 5).
15. CONVEYANCE ...	When the amount paid or secured does not exceed Rs. 50	Rs. 0, As. 8, P. 0
16. MORTGAGE-DEED, when Possession of the Property comprised therein is given by the Mortgagor at the time of execution	When such amount exceed Rs. 50 but does not exceed Rs. 100... ...	1 0 0
	For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000 ...	1 0 0
	For every Rs. 500 or part thereof in excess of Rs. 1,000 up to Rs. 10,000	5 0 0
17. INSTRUMENT OF FURTHER CHARGE on such Property, whether by Indorsement or otherwise ...	For every Rs. 1,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000	5 0 0
	For every Rs. 10,000 or part thereof in excess Rs. 30,000 up to Rs. 1,00,000	50 0 0
	For every Rs. 20,000 or part thereof in excess of Rs. 1,00,000	75 0 0
18. INSTRUMENT OF EXCHANGE, OR PARTITION OF IMMOVEABLE PROPERTY when Money is paid for equality of Exchange or Partition ...	... ...	The stamp-duty with which a conveyance for the amount so paid is chargeable (No. 15), in addition to the stamp-duty with which an instrument of exchange of immoveable property or a partition-deed is chargeable under schedule II.

SCHEDULE I—*(continued)*.

Instrument chargeable with ad valorem Stamp-duties.

Description of Instruments.		Proper Stamp-duty.
19. Lease ...	*(a.)* Where the lease is expressed to be for a term of less than one year ...	The stamp-duty with which a Bond (No. 5) for the total amount payable under such lease is chargeable.
	(b.) Where the lease is expressed to be for a term of not less than one year but not more than three years ...	The stamp-duty with which a Bond for the total amount payable under such lease during the first year of the term is chargeable.
	(c.) Where the lease is expressed to be for a term exceeding three years, or where no term is expressed ...	The stamp-duty with which a conveyance for the total amount payable under such lease during the first year of the term is chargeable.
	(d.) Where the lease is granted in consideration of a fine or premium and where no rent is reserved ...	The stamp-duty with which a conveyance for the amount so paid is chargeable.
	(e.) Where the lease is granted in consideration of a fine or premium and also of a rent	The stamp-duty with which a conveyance for the amount of the fine or premium is chargeable, in addition to the stamp-duty with which the lease would be chargeable in case no such fine or premium had been paid.
20. Surrender of Lease. ...	*(a.)* Where the amount of stamp-duty chargeable on the lease does not exceed Rs. 16	The stamp-duty with which the lease is chargeable (No. 19).
	(b.) In any other case	Sixteen Rupees.
21. Appraisement or valuation— Of any property or any interest therein ... Or of the annual or monthly value thereof Or of any repairs wanted Or of the materials used or to be used in any building ... ... Or of any Artificer's work	*(a.)* Where the amount of such appraisement or valuation does not exceed Rs. 500	Eight Annas
	(b.) Where it exceeds Rs. 500 ...	One Rupee.
22. Award	*(a.)* Where the amount of value of the property in dispute expressed in such award does not exceed Rs. 500 ...	Eight Annas.
	(b.) Where such amount or value exceeds Rs. 500, or where no amount or value is expressed in the award ...	One Rupee.
23. Copy, duplicate or extract, attested to be a true copy, duplicate or extract ...	*(a.)* If the duty chargeable on the original does not exceed Rs. 5, or if no duty is chargeable on the original ...	Eight Annas.
	(b.) If the duty chargeable on the original exceeds Rs. 5, but does not exceed Rs. 20	One Rupee.
	(c.) If such duty exceeds Rs. 20, but does not exceed Rs. 20	Two Rupees.
	(d.) If such duty exceeds Rs. 50 ...	Four Rupees.

SCHEDULE I—(*continued*).

Table showing the Stamp-duty chargeable under this Schedule on any Bill of Exchange or Promissory Note, the amount of which does not exceed Rs. 2,00,000.

When the amount exceeds		but does not exceed	PROPER STAMP-DUTY.					
			If drawn singly.		If drawn in sets of two, for each part of the set.		If drawn in sets of three, for each part of the set.	
Rs.	...	Rs. 100	Rs. 0 A. 1		Rs. 0 A. 1		Rs. 0 A. 1	
100	...	200	0	2	0	1	0	1
200	...	300	0	3	0	2	0	1
300	...	600	0	6	0	3	0	2
600	...	900	0	9	0	5	0	3
900	...	1,200	0	12	0	6	0	4
1,200	...	1,500	0	15	0	8	0	5
1,500	...	2,500	1	8	0	12	0	8
2,500	...	5,000	3	0	1	8	1	0
5,000	...	7,500	4	8	2	4	1	8
7,500	...	10,000	6	0	3	0	2	0
10,000	...	15,000	9	0	4	8	3	0
15,000	...	20,000	12	0	6	0	4	0
20,000	...	25,000	15	0	7	8	5	0
25,000	...	30,000	18	0	9	0	6	0
30,000	...	40,000	24	0	12	0	8	0
40,000	...	50,000	30	0	15	0	10	0
50,000	...	60,000	36	0	18	0	12	0
60,000	...	70,000	42	0	21	0	14	0
70,000	...	80,000	48	0	24	0	16	0
80,000	...	90,000	54	0	27	0	18	0
90,000	...	1,00,000	60	0	30	0	20	0
1,00,000	...	1,10,000	66	0	33	0	22	0
1,10,000	...	1,20,000	72	0	36	0	24	0
1,20,000	...	1,30,000	78	0	39	0	26	0
1,30,000	...	1,40,000	84	0	42	0	28	0
1,40,000	...	1,50,000	90	0	45	0	30	0
1,50,000	...	1,60,000	96	0	48	0	32	0
1,60,000	...	1,70,000	102	0	51	0	34	0
1,70,000	...	1,80,000	108	0	54	0	36	0
1,80,000	...	1,90,000	114	0	57	0	38	0
1,90,000	...	2,00,000	120	0	60	0	40	0

SCHEDULE I—(*continued*)

Table showing the Stamp-duty chargeable under this Schedule on Bonds for any sum not exceeding Rs. 4,00,000.

When such sum exceeds		but does not exceed	Proper Stamp-duty.		
Rs. ...	...	Rs. 25	Rs. 0	A.	2
25	...	50	0		4
50	...	100	0		8
100	...	200	1		0
200	...	300	1		8
300	...	400	2		0
400	...	500	2		8
500	...	600	3		0
600	...	700	3		8
700	...	800	4		0
800	...	900	4		8
900	...	1,000	5		0
1,000	...	1,500	7		8
1,500	...	2,000	10		0
2,000	...	2,500	12		8
2,500	.	3,000	15		0
3,000	...	3,500	17		8
3,500	...	4,000	20		0
4,000	...	4,500	22		8
4,500	...	5,000	25		0
5,000	...	5,500	27		8
5,500	...	6,000	30		0
6,000	...	6,500	32		8
6,500	...	7,000	35		0
7,000	...	7,500	37		8
7,500	...	8,000	40		0
8,000	...	8,500	42		8
8,500	...	9,000	45		0
9,000	...	9,500	47		8
9,500	...	10,000	50		0
10,000	...	11,000	52		8
11,000	...	12,000	55		0
12,000	...	13,000	57		8
13,000	...	14,000	60		0
14,000	...	15,000	62		8
15,000	...	16,000	65		0
16,000	...	17,000	67		8
17,000	...	18,000	70		0
18,000	...	19,000	72		8
19,000	...	20,000	75		0
20,000	...	21,000	77		8
21,000	...	22,000	80		0
22,000	...	23,000	82		8
23,000	...	24,000	85		0
24,000	...	25,000	87		8
25,000	...	26,000	90		0
26,000	...	27,000	92		8
27,000	...	28,000	95		0
28,000	...	29,000	97		8
29,000	...	30,000	100		0
30,000	...	40,000	112		8
40,000	...	50,000	125		0
50,000	...	60,000	137		8
60,000	...	70,000	150		0
70,000	...	80,000	162		8
80,000	...	90,000	175		0
90,000	...	1,00,000	187		8

SCHEDULE I—(*continued*).

Table showing the Stamp-duty chargeable under this Schedule on Bonds for any sum not exceeding Rs. 4,00,000,—(concluded).

When such sum exceeds		but does not exceed	Proper Stamp-duty.	
Rs. 1,00,000	...	Rs. 1,10,000	Rs. 200	A. 0
1,10,000	...	1,20,000	212	8
1,20,000	...	1,30,000	225	0
1,30,000	...	1,40,000	237	8
1,40,000	...	1,50,000	250	0
1,50,000	...	1,60,000	262	8
1,60,000	...	1,70,000	275	0
1,70,000	...	1,80,000	287	8
1,80,000	...	1,90,000	300	0
1,90,000	...	2,00,000	312	8
2,00,000	...	2,10,000	325	0
2,10,000	..	2,20,000	337	8
2,20,000	...	2,30,000	350	0
2,30,000	...	2,40,000	362	8
2,40,000	...	2,50,000	375	0
2,50,000	...	2,60,000	387	0
2,60,000	...	2,70,000	400	0
2,70,000	...	2,80,000	412	8
2,80,000	...	2,90,000	425	0
2,90,000	...	3,00,000	437	8
3,00,000	...	3,10,000	450	0
2,10,000	...	3,20,000	462	8
3,20,000	...	3,30,000	475	0
3,30,000	...	3,40,000	487	8
3,40,000	...	3,50,000	500	0
3,50,000	...	3,60,000	512	8
3,60,000	...	3,70,000	525	0
3,70,000	...	3,80,000	537	8
3,80,000	...	3,90,000	550	0
3,90,000	...	4,00,000	562	8

SCHEDULE I—(*continued*).

Table showing the Stamp-duty chargeable under this Schedule on any Conveyance the consideration-money set forth in which does not exceed Rs. 4,00,000.

When the amount of such consideration-money exceeds		but does not exceed	Proper Stamp-duty.	
	...	Rs. 50	Rs. 0	A. 8
50	...	100	1	0
100	...	200	2	0
200	...	300	3	0
300	...	400	4	0
400	...	500	5	0
500	...	600	6	0
600	...	700	7	0
700	...	800	8	0
800	...	900	9	0
900	...	1,000	10	0
1,000	...	1,500	15	0
1,500	...	2,000	20	0
2,000	...	2,500	25	0
2,500	...	3,000	30	0
3,000	...	3,500	35	0

SCHEDULE I—(*concluded*).

Table showing the Stamp-duty chargeable under this Schedule on any Conveyance the consideration-money set forth in which does not exceed Rs. 4,00,000,—(concluded).

When such amount of such consideration-money exceeds		but does not exceed	Proper Stamp-duty.	
Rs. 3,500	...	Rs. 4,000	Rs. 40	A. 0
4,000	...	4,500	45	0
4,500	...	5,000	50	0
5,000	...	5,500	55	0
5,500	...	6,000	60	0
6,000	...	6,500	65	0
6.500	...	7,000	70	0
7,000	...	7,500	75	0
7,500	...	8,000	80	0
8,000	...	8,500	85	0
8,500	...	9,000	90	0
9,000	...	9,500	95	0
9,500	..	10,000	100	0
10,000	...	11,000	105	0
11,000	...	12,000	110	0
12,000	...	13,000	115	0
13,000	...	14,000	120	0
14,000	...	15,000	125	0
15,000	...	16,000	130	0
16,000	...	17,000	135	0
17,000	...	18,000	140	0
18,000	...	19,000	145	0
10,000	...	20,000	150	0
20,000	...	21,000	155	0
21,000	...	22,000	160	0
22,000	...	23,000	165	0
23,000	...	24,000	170	0
24,000	...	25,000	175	0
25,000	...	26,000	180	0
26,000	...	27,000	185	0
27,000	...	28,000	190	0
28,000	...	29,000	195	0
29,000	...	30,000	200	0
30,000	...	40,000	250	0
40,000	...	50,000	300	0
50,000	...	60,000	350	0
60,000	...	70,000	400	0
70,000	...	80,000	450	0
80,000	...	90,000	500	0
90,000	...	1,00,000	550	0
1,00,000	...	1,20,000	625	0
1,20,000	...	1,40,000	700	0
1,40,000	...	1,60,000	775	0
1,60,000	...	1,80,000	850	0
1,80,000	...	2,00,000	925	0
2,00,000	...	2,20,000	1,000	0
2,20,000	...	2,40,000	1,075	0
2,40,000	...	2,60,000	1,150	0
2,60,000	...	2,80,000	1,225	0
2,80,000	...	3,00,000	1,300	0
3,00,000	...	3,20,000	1,375	0
3,20,000	...	3,40,000	1,450	0
3,40,000	...	3,60,000	1,525	0
3,60,000	...	3,80,000	1,600	0
3,80,000	...	4,00,000	1,675	0

SCHEDULE II.

Instruments chargeable with fixed Stamp-duties.

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
1.—BILL OF EXCHANGE, PROMISSORY NOTE, CHEQUE OR ORDER for the payment on demand of an amount exceeding twenty rupees	One Annas.*
2.—LETTER OF CREDIT	
3.—AGREEMENT OR MEMORANDUM OF AN AGREEMENT relating to the sale of any Government Security, share in a Company or Association, or Bill of Exchange ...	
4.—CERTIFICATE OR OTHER DOCUMENT purporting to denote the right or title of the holder thereof, or any other person, either to any shares, scrip to stock in or of any Company or Association, or proposed Company or Association, or to become proprietor of shares, scrip or stock in or of any such Company or Association ...	
5.—NOTE OR MEMORANDUM written in any book or written on a separate paper, whereby any account, debt or demand, or any part of any account, debt or demand therein specified, and amounting to twenty rupees or upwards, is expressed to have been balanced, or is acknowledged to be due	
6.—SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel	
7.—RECEIPT OR DISCHARGE given for or upon the payment of money, or delivery of goods, in satisfaction of a debt, the amount or value of which money or goods exceeds twenty rupees	
8.—PROXY to vote at any one meeting of—	
(*a*).—Members of a Company or Association whose stock or funds is or are divided into shares and transferable	
(*b*).—Municipal Commissioners	
(*c*).—Justices of the Peace, being a body corporate ...	
(*d*).—Proprietors, members or contributors to the funds of any institution	
9.—BILL OF LADING	Four Annas.
10.—DOCK-WARRANT	
11.—ANY AGREEMENT OR MEMORANDUM OF AN AGREEMENT not otherwise provided for by this Act: Provided that where two or more letters are offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if any one of such letters shall be stamped as an agreement ...	Eight Annas.
12.—NOTICE OF PROTEST by the master of a ship ...	
13.—POWER-OF-ATTORNEY to present for registration—	
(*a*).—A single instrument	
(*b*).—Any number of instruments required for the completion of a single transaction	
14.—AFFIDAVIT not made for the immediate purpose of being produced in any Court	One Rupee.
15.—COLLATERAL INSTRUMENT not otherwise provided for by this Schedule	
16.—COUNTERPART OF ANY INSTRUMENT chargeable with stamp-duty under this Act: Provided that the counterpart shall not be available unless the Collector or such other officers as he may authorize in that behalf shall certify that the proper stamp-duty on the original instrument has been paid. Such certificate shall be endorsed on the counterpart on the same being produced together with the original instrument, and on the whole being duly executed and duly stamped in other respects	
17.—INSTRUMENT OF DISSOLUTION OF PARTNERSHIP	

* This duty may be denoted by an adhesive stamp.

SCHEDULE II—(*concluded*).

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
18.—POWER-OF-ATTORNEY for the performance of a single act when the value of the matter to be dealt with does not exceed five hundred rupees	One Rupee.
19.—POWER-OF-ATTORNEY for the performance of a single act when the value of the matter to be dealt with exceeds five hundred rupees	Two Rupees.
20.—BOND OR MORTGAGE-DEED executed as a collateral security for the performance of any act, where such performance is secured by some instrument previously executed on stamped paper in accordance with the law in force in British India at the time of its execution ...	
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SCHEDULE III.

Repealed by Act XIV of 1870.

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(Nothing hereinafter contained shall be deemed to have the force of law.)

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ACT No. XX. OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent from the Governor-General on the 10th September 1869.*)

An Act to provide for the good order and discipline of Volunteer Corps, and to invest them with certain powers.

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5. *Formation of corps.*
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8. *Volunteers subjected to Articles of War so far as they apply to officers.*
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21. Penalty for assaulting or resisting Volunteers in discharge of their duty.
22. Recovery of fines.
23. Power to disarm persons. And to apprehend and deliver to police. Forfeiture of weapons seized.
24. Power to prevent disturbances of the public peace. To disperse unlawful assemblies. To apprehend certain suspected persons.
25. Exemption from horse-tax.
26. Limitation of suits.

Preamble.

WHEREAS many loyal subjects of Her Majesty have volunteered their services for the protection of life and property and the preservation of the peace, and have with the sanction of Government associated and enrolled themselves as Military Corps under the command of officers appointed for that purpose; and it is expedient to provide for the good order and discipline of such corps, and to invest their members with certain powers; It is hereby enacted as follows:—

Preliminary.

Short title.

I. This Act may be called "The Indian Volunteers' Act, 1869."

Extent of Act.

II. This Act shall extend to the whole of British India and (so far as regards British subjects) to the dominions of Native Princes and States in alliance with Her Majesty.

III. Repealed by Act XIV. of 1870.

"Magistrate."

IV. In this Act "Magistrate" means, within the limits of the Presidency Towns, a Magistrate of Police and, without those limits, a person exercising the full powers of a Magistrate.

Formation and Dissolution of Volunteer Corps.

Formation of corps.

V. Corps of Volunteers may, with the sanction of the Governor-General of India in Council, or of the Local Government, be formed in any part of British India or of the said dominions.

Certificate of Commanding Officer to be evidence of enrolment.

VI. A certificate of enrolment in such corps, signed by the Commanding Officer thereof, shall be *primâ facie* evidence of such enrolment.

Power to disband corps or remove members.

VII. The Governor-General of India in Council or the Local Government may disband any corps formed or enrolled under the provisions of this Act, or of Act No. XXIII of 1857, or remove from such corps any member thereof.

Application of Articles of War.

Volunteers subjected to Articles of War so far as they apply to officers.

VIII. Every member of a corps of Volunteers shall, for all military offences of which he shall be guilty whilst on actual duty or on parade, be subject to the Articles of War for the time being in force for the better government of Her Majesty's Army so far as the same are applicable to officers and consistent with the provisions of this Act:

Proviso.

Provided that no such member shall for any offence against the said Articles be subject to the punishment of death.

Courts Martial.

Appointment of and sentences by General Courts Martial.

IX. General Courts Martial shall be convened and appointed by the Commanding Officer of the corps, with the sanction of the Local Government, for the trial of military offences of which any member of such corps shall be guilty whilst on actual duty.

No sentence of such Court Martial shall be put into execution until after a report of the whole proceedings shall have been made to, and the sentence shall have been confirmed by, the Local Government.

The Local Government may commute any such sentence for a less punishment, or pardon the offender.

General Courts Martial of whom to be composed.

X. General Courts Martial shall consist of not less than nine members of the corps, and every member of the corps, whether an officer or not, shall be competent to sit and act as a member of such Court Martial.

Regimental Courts Martial.

XI. Regimental Courts Martial may be convened by the Commanding Officer of the corps, and shall consist of not less than three members of the corps.

Procedure of Courts Martial held under this Act.

XII. The proceedings of Courts Martial convened under this Act shall be conducted according to the laws and customs applicable to Courts Martial held under the said Articles of War, except so far as the same are inconsistent with the provisions of this Act.

Withdrawal from Corps.

Power to quit the corps.

XIII. Any person enrolled as a member of a corps of Vulunteers, whether he shall have been elected or commissioned as an officer in such corps or not, may, except whilst on actual duty, quit the corps upon giving to the Officer Commanding the corps seven days' previous notice in writing of his intention so to do,

or without such notice of the Commanding Officer if the corps shall consider it reasonable and allow him so to do.

Commissions to officers to cease on retirement or dismissal.

XIV. Every commission to any member of a corps of Volunteers appointing him an officer in such corps shall cease upon his retirement or dismissal from the corps.

Delivery of arms belonging to Government by members quitting the corps.

XV. Every member of a corps of Vulunteers who shall have received any arms, ammunition, accoutrements, or uniform belonging to Government, or which shall have been furnished from the public stores, or at the public expense, shall, upon his quitting such corps.

or upon his dismissal therefrom,

or whenever he shall be required so to do by the Commanding Officer of the corps,

or whenever the corps shall be disbanded,

deliver up to the Commanding Officer or such person as he shall appoint to receive the same, all such arms, ammunition, accountrements, and unifom in good order and condition, reasonable wear thereof only excepted ;

and in default thereof he shall pay such sum of money as shall be adjudged by a Regimental Court Martial to be assembled for that purpose by the Commanding Officer of the corps. A copy of such adjudication' signed by the President of the Court Martial, shall be sent to the principal Court of original civil jurisdiction in the district in which the adjudication shall have been given, and shall be executed by such Court as if it were a decree for money under the Code of Civil Procedure.

Local Limits of Service.

No member bound to serve beyond certain distance.

XVI. No member of a corps of Volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits within which he shall have voluntarily engaged to serve or proceed on duty in accordance with the terms upon which the corps to which he belongs shall have been constituted ; and in case no such limits shall have been fixed, he shall not be liable to serve or proceed on duty beyond four miles from the place at which he was enrolled.

Rules.

Commanding Officer to frame rules which shall be binding on the members.

XVII. The Commanding Officer of every corps of Volunteers may frame such general rules as he may think fit for regulating the times at which and the manner in which the duties of the corps and of the several members or detachments thereof shall be discharged.

Such rules, when sanctioned by the Local Government, shall be binding on the corps and on the several members thereof.

Penalties.

Not attending actual duty other than drill or parade.

XVIII. If any member of a corps of Volunteers, being warned for actual duty other than drill or parade, shall, without reasonable excuse, neglect to attend such duty, he shall be liable, upon conviction by a General Court Martial, to a fine not exceeding one hundred rupees, or to simple dismissal from the corps, or to dismissal from the corps as unworthy to belong to it.

Not attending drill or parade.

Other minor military offence.

XIX. If any member of such corps shall without reasonable excuse neglect to attend drill or parade at such times as may be appointed for that purpose,

or shall be guilty of any neglect of duty or other military offence which in the judgment of the commanding Officer of the corps will be sufficiently punished by a small fine,

he shall be liable to pay such fine, not exceeding fifty rupees, as a Regimental Court Martial shall impose.

Punishment for non-payment of fine.

XX. If any member of such corps shall neglect or refuse to pay any fine to which he shall be sentenced by any Court Martial, within such time as shall be fixed by the Commanding Officer of the corps, he may be dismissed by the said Commanding Officer from the said corps; and every such dismissal shall be recorded and reported to the Local Government.

Penalty for assaulting or resisting Volunteers in discharge of their duty.

XXI. Whoever assaults or resists, or abets within the meaning of the Indian Penal Code any person in assaulting or resisting, any member of such corps in the discharge of his duty, shall be punishable, on conviction before a Magistrate, with fine not exceeding two hundred rupees, or with imprisonment for any term not exceeding six months, or with both.

Recovery of fines.

XXII. In default of payment of any fine imposed a by Court Martial under this Act, a copy of the sentence of the Court Martial imposing the fine, signed by the President of such Court, may be sent to a Magistrate in the Presidency Town or the District in which the fine shall have been imposed, who shall thereupon cause the fine to be recovered as if he had himself imposed it.

Fines imposed under section twenty-one may be recovered, if for offences committed outside the limits of the Presidency Towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the police of such towns in force for the time being.

Powers of Volunteers.

Power to disarm persons.

XXIII. Any member of a corps of Volunteers, whenever he may be in discharge of his duty as a member of the corps, and wheresoever he may then be, may disarm any person not being in Her Majesty's Military or Naval service or a Police officer, found between sunset and sunrise in any public street, thoroughfare, or other public place, armed with a sword, spear, gun, or other warlike instrument, without a pass or license for that purpose from the Commissioner of Police or other officer authorized by Government to grant the same;

and may also disarm any person found armed at any time contrary to law or to any order of Government in any public street, thoroughfare, or other public place;

And to apprehend and deliver to police.

and may also apprehend and deliver over to a Police officer any person so found armed in order that he may be dealt with according to law;

Forfeiture of weapons seized.

and the weapon so seized shall be forfeited to Government or otherwise dealt with according to law, or to the orders of Government.

Power to prevent disturbances of the public peace.

To disperse unlawful assemblies.

XXIV. Any member of such corps, whenever he is on duty, may prevent any disturbance of the public peace, and disperse any persons whom he may find assembled together to the number of five or more without reasonable cause between sunset and sunrise in any public street, thoroughfare, or other public place in which such member of said corps may be in the discharge of his duty,

To apprehend certain suspected persons.

and may also apprehend any person reasonably suspected of having committed, or being about to commit any offence against the State, or of having abetted within the meaning of the Indian Penal Code, or being about to abet, any other person in the Commission of such offence; and deliver him over to some Police officer.

Miscellaneous.

Exemption from horse-tax.

XXV. Every mounted officer, and every mounted orderly of a corps of Volunteers, and every member of such corps, while he belongs to a troop of cavalry in such corps, shall be at liberty to keep one horse without being liable to pay in respect thereof any municipal or other tax imposed upon horses.

Limitation of suits.

XXVI. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act or the said Act No. XXIII of 1857, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

THE EUROPEAN VAGRANCY ACT, 1869.

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ACT No. XXI. OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th September 1869).

An Act to provide against European Vagrancy.

WHEREAS numerous persons of European extraction are at present wandering in a destitute condition throughout India, and whereas such conduct is prejudicial to public order, and it is expedient to prevent the same ; It is hereby enacted as follows :— Preamble.

PART I.

PRELIMINARY.

I. This Act may be called "The European Vagrancy Act, 1869." Short title.

II. Sections three, seventeen, eighteen, twenty-one, twenty-two, twenty-three, twenty-seven, twenty-eight, thirty, thirty-two, thirty-three and thirty-four shall come into operation at once, and shall extend to the whole of British India and to the dominions of Princes and States in India in alliance with Her Majesty : Commencement and extent of Act.

Sections twenty-five, twenty-six and thirty-one shall come into operation on the first day of January 1870, and shall extend to the whole of British India and to the said dominions :

And the rest of this Act shall come into operation in such parts of British India and of the said dominions and on such day or respective days as the Governor-General of India in Council shall from time to time by notification in the *Gazette of India* appoint in this behalf.

III. In this Act— Interpretation-clause.

" Person of European extraction" includes Americans and Australasians : "Person of European extraction."

" Vagrant" means a person of European extraction found asking for alms, or wandering about without any employment or visible means of subsistence : "Vagrant."

" Master of a ship" includes any person in charge of a decked vessel : "Master of as hip."

And in parts III and V of this Act " Magistrate" means, within the limits of the towns of Calcutta, Madras and Bombay, a Magistrate of Police, and, outside those limits, a person exercising powers under the Code of Criminal Procedure not less than those of a Subordinate Magistrate of the first class. "Magistrate."

PART II.

PROCEDURE

IV. Any Polic officer may, within the limits of the towns of Calcutta, Madras and Bombay, require any person who is apparently a vagrant to accompany him or any other Police officer to and to appear before the nearest Magistrate of Police, and may, without those limits, require any such person to accompany him or any other Police officer to and to appear before the nearest Justice of the Peace exercising the full powers of a Magistrate under the Code of Criminal Procedure. Power to require apparent vagrant to go before Police Magistrate, or Justice of the Peace with full powers of a Magistrate.

The Magistrate of the Police or Justice shall make a summary inquiry into the circumstances and character of the alleged vagrant ; and if he is satisfied that such person is a vagrant, he shall record in his office a declaration to that effect. Summary inquiry into vagrant's circumstances.

If he is further of opinion that the vagrant is not likely to obtain employment at once, or if he has reason to believe that a declaration of vagrancy has on any former occasion been recorded in respect of such vagrant, he shall require the vagrant to go to a Government work-house and shall draw out an order to that effect. Order to go to work house.

The vagrant shall then be placed in charge of the Police for the purpose of being forwarded to the work house, and the said order shall be a sufficient authority to the Police for retaining him in their charge while he is on his way to the work-house, and to the governor of the work-house for receiving and detaining such vagrant.

VI. Where the officer making the inquiry mentioned in section five is of opinion that the vagrant is likely to obtain employment in any place subject to the Local Government or (when the vagrant is in any part of the said dominions) in any place subject to the nearest Local Government, such officer may in his discretion forward the vagrant to such place in charge of the Police and draw up an order to that effect. Forwarding vagrant to place of employment.

Such order shall be a sufficient authority to the Police for retaining the vagrant in their charge while he is on his way to such place of employment.

Assistance to obtain employment.

VII. Upon the arrival at the place of employment, the vagrant shall be taken before the nearest Magistrate of Police or Justice of the Peace exercising full powers as aforesaid, to whom the order for transmission shall be delivered.

Such officer shall thereupon, to the best of his ability, assist the vagrant in seeking employment, and may in the meantime, if he think fit, keep the vagrant in the charge of the Police.

Should the vagrant fail to obtain suitable employment within a reasonable time not exceeding fifteen days from such arrival, such officer shall forward him to a Government work-house in the manner provided by section five.

Subsistence allowance.

VIII. Every person while in charge of the Police, whether before inquiry as to his vagrancy, or while he is on his way, under section five, to the work-house, or, under section six, to a place of employment, shall be entitled to an allowance for his subsistence at the rate of eight annas per diem.

The Magistrate of Police or Justice, before whom any vagrant is taken under section seven, may, if he think fit, order the vagrant to receive a similar allowance while he is seeking employment.

The Local Government shall cause such allowance to be paid out of such funds at its disposal and in such manner as it may from time to time direct.

Power to give certificates.

IX. Any Magistrate of Police or Justice of the Peace exercising full powers as aforesaid may, on being satisfied that any person of European extraction is not likely to become a vagrant, give such person a certificate under his hand stating that for a certain time (mentioning it) not exceeding six months from the date of the certificate, and within certain limits (mentioning them), nothing in sections four five, six and seven shall apply to the holder of such certificate; and thereupon (subject to the provisions contained in sections twenty-three and twenty-four) nothing in sections four, five, six and seven shall apply to such person for such time and within such limits as aforesaid.

Form of certificate.

Every such certificate shall be in the form set forth in the first schedule to the Act annexed, or as near thereto as circumstances will admit.

Power to invest Justices, District Superintendents of Police, &c., with jurisdiction of full power Justices under Part II.

X. The Local Government, may from time to time, by notification in the official Gazette, invest any Justice of the Peace, District Superintendent of Police, or Assistant District Superintendent of Police with the jurisdiction and powers conferred by this Part on a Justice of the Peace exercising full powers as aforesaid.

PART III.

GOVERNMENT WORK-HOUSES.

Provision of Government work-houses.

XI. The Local-Government, with the previous sanction of the Governor-General of India in Council, may provide work-houses, with their necessary furniture and establishment, at such places as it may think proper, for the temporary reception of vagrants,

or may by writing under the hand of a Secretary to such Government, certify any building, or part of a building not provided as a work-house under the former part of this section, to be fit for a work-house for the purposes of this Act. Every such certificate shall be published in the Local Official Gazette and thereupon such building or part of a building shall, until the Local Government otherwise orders, be deemed a Government work-house under this Act.

Scale of diet.

The Local Government shall allow the same scale of diet for the support of vagrants received in such work-houses as is for the time being allowed for Europeans confined in the local prisons or penitentiaries.

Superintendence of work-house.

XII. Every such work-house shall be under the immediate charge of a governor, who shall be appointed and may be suspended or removed by the Local Government.

Every such governor shall, if the Local Government think fit, be subject to the orders of a Committee of Management appointed from time to time by such Government, or, in the absence of a Committee, to the orders of such officer as the Local Government shall from time to time appoint in this behalf.

Search of vagrants.

XIII. Every such governor may order that any vagrant admitted to the work-house under his charge shall be searched, and that the vagrant's bundles packages and other effects shall be inspected, and may direct that any money then found with or on the vagrant, shall be applied (subject to the orders of the Local Government) towards the expense of carrying this Act into execution, and may order that all or any of the said effects shall be sold, and that the produce of the sale be applied as aforesaid, but subject to the like orders.

XIV. Vagrants admitted to work-houses under this Act shall be subject to such rules of management and discipline as may from time to time be prescribed by the Local Government with the previous sanction of the Governor-General of India in Council. Discipline.

Any vagrant who knowingly disobeys or neglects any such rule, shall, on conviction before a Magistrate, be punishable with rigorous imprisonment for a term which may extend to three months.

XV. The governor and the Committee of Management (if any) of every such work-house shall use his and their best endeavours to obtain outside the work-house suitable employment for vagrants admitted thereto. Refusal to accept employment.

When such employment is obtained, any such vagrant refusing or neglecting to avail himself thereof, shall, on conviction before a Magistrate, be punishable with rigorous imprisonment for a term which may extend to one month.

PART IV.

REMOVAL FROM INDIA.

XVI. If after the lapse of a reasonable time no situable employment is obtainable for any such vagrant, the Local Government may either (when he shall have entered into such agreement as hereinafter mentioned) cause him to be removed from British India in manner hereinafter provided, the cost of such removal being paid by Government ; Removal of vagrants. Cost of removal.

or it may cause sections twenty-three and thirty to be read to him and may then release him.

XVII. Any vagrant or other person of European extraction may enter into an agreement in writing with the Secretary of State for India in Council, binding himself— Agreements with vagrants.

(*a.*) to proceed to such port in British India as shall be mentioned in the agreement ;

(*b.*) there to embark on board such ship and at such time as shall be directed by an officer appointed in this behalf by the Local Government of the territories in which such port is situate, for the purpose of being removed from India at the expense of the Secretary of State in Council ;

(*c.*) to remain on board such ship until she shall have arrived at her port of destination ; and

(*d.*) not to return to India until five years shall have elapsed from the date of such embarkation.

Every such agreement may be on unstamped paper and shall be in the form set forth in the second schedule to this Act annexed, or as near thereto as circumstances will admit. Form of agreement.

XVIII. The Local Government of the territories in which the said port is situate may enter into such contracts for conveyance or otherwise, and perform such other acts as may be necessary to carry out such agreement on the part of the said Secretary of State in Council. Power to perform agreement.

PART V.

PENALTIES.

XIX. Any person refusing or failing to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, for the purpose of preliminary inquiry, when required so to do under section four, shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with imprisonment for a term which may extend to one month, or with fine, or with both. Refusal to go before Police Magistrate, or Justice.

And any person who, when required under section four to accompany a Police officer to, or to appear before a Magistrate of Police or Justice of the Peace, commits an offence punishable under section three hundred and fifty-three of the Indian Penal Code, may, whether he be or be not an European British subject, be tried by a Magistrate for such offence. Assaulting Police.

XX. Any vagrant escaping from the Police while committed to their charge under the orders specified in sections five and six, Escaping from Police.

or leaving a work-house under this Act without permission from the governor, shall for every such offence be punishable, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years. Quitting work-house without leave.

XXI. Any person entering into an agreement under section seventeen and failing to proceed in pursuance thereof to the port therein mentioned, Failing to proceed to port of embarkation.

Refusing to go on boardship.

or refusing to embark when directed so to do under the same section,

Escaping from ship.

or escaping from the ship in which he has so embarked before she shall have reached her port of destination,

shall for every such offence be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to six months.

Returning to India.

XXII. Any person returning to India within five years of the date of his embarkation pursuant to any agreement entered into under section seventeen, unless specially permitted so to do by the Secretary of State for India, shall for every such offence be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

Begging.

XXIII. Any person of European extraction found asking for alms when he has sufficient means of subsistence,

or asking for alms in a threatening or insolent manner,

or continuing to ask for alms of any person after he has been required to desist,

shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term not exceeding one month for the first offence, two months for the second, and three months for any subsequent offence.

Procedure on close of imprisonment.

XXIV. Every person imprisoned under section nineteen, twenty, twenty-one, twenty-two or twenty-three shall, at the end of his term of imprisonment, be placed before the nearest Magistrate of Police or Justice of the Peace exercising full powers as aforesaid, who shall, if he think fit, forthwith deal with him in the manner prescribed by sections five and six.

The order of transmission shall certify the fact of the previous conviction.

Penalty on shipmaster bringing European convicts to India.

XXV. Every master of a ship landing or allowing to land in any part of British India any person of European extraction who has been convicted in any other part of Her Majesty's dominions of felony or of an offence which, if committed in England, would be felony, shall on conviction before a Magistrate, be liable, for every person so landed or allowed to land, to pay a fine not exceeding five hundred rupees and not less than one hundred rupees, and, in default of payment, to imprisonment for any term not exceeding two months,

unless the defendant shall satisfy the Magistrate by evidence (which the defendant is hereby declared competent to give), that he had made due enquiry as to the person so landed or allowed to land, and that he had no reason to believe that such person had been convicted as aforesaid.

Power to exempt certain shipmasters.

The Governor-General of India in Council may from time to time, by notification in the *Gazette of India*, exempt from the operation of the former part of this section the masters of any class of ships, on such terms as to the said Governor-General in Council shall seem fit, and whether in respect of all or of any part o the persons on board such ships.

The said Governor-General in Council may in like manner revoke any exemption made under this section.

Recovery of fines.

XXVI. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by the Act regulating the Police of such towns in force for the time being.

Payment of fines.

All fines recovered under this Act shall be paid to the credit of the Government of India, or as such Government shall from time to time [illegible]

Prosecutions.

XXVII. All prosecutions under this Act may be instituted [illegible] such officer as the Local Government shall from time to time appoint.

Limits of jurisdiction.

XXVIII. In imposing penalties under this Part and Part III of this Act, no person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure in the case of offenders not being European British subjects.

Validity of of proceedings where Police Magistrate or Justice is not the nearest.

XXIX. No proceeding under this Act shall be deemed invalid by reason only that the Magistrate of Police or Justice, before whom a person apparently a vagrant was required to appear, or before whom a person was placed under section twenty-four, was not the nearest.

PART VI.

MISCELLANEOUS.

Deprivation of privileges of European British subjects under

XXX. Any European British subject who, upon the summary enquiry mentioned in section five, has been determined to be a vagrant, or who has been convicted under section twenty-two or section twenty-three, shall, so long as he re-

mains in India, be subject, beyond the limits of the said towns, to the provisions of the Code of Criminal Procedure (other than those contained in chapter XIX of the same Code) applicable to an European not being a British subject.

Criminal Procedure Code.

If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of anything contained in the former part of this section.

An office copy of the declaration recorded under section five shall be *primâ facie* evidence that the European British subject named therein has been, upon such enquiry, determined to be a vagrant.

Liability of importers of Europeans or employers of soldiers becoming vagrants.

XXXI. Whenever any person of European extraction lands in India,

or, being a Non-Commissioned Officer or Soldier in Her Majesty's army, leaves that army in India,

under an engagement to serve any other person, or any Company, Association or Body of persons in any capacity,

and becomes chargeable to the State as a vagrant within one year after his arrival in India or leaving the Army, as the case may be, then the person, or Company, Association or Body, to serve whom he has so landed in India or left the army, shall be liable to pay to the Government the cost of his removal under this Act and all other charges incurred by the State in consequence of his becoming a vagrant.

Recovery of charges.

Such costs and charges shall be recoverable by suit as if an express agreement to repay them had been entered into with the Secretary of State for India in Council, by the person, Company, Association or Body chargeable.

Exercise of powers conferred on Local Government.

XXXII. The powers and duties conferred and imposed by sections sixteen and eighteen on a Local Government may be exercised and performed by such class of officers as the Local Government shall from time to time, by notification in the official Gazette, appoint in this behalf.

Exercise in Native States of powers conferred on Magistrate, Justices and Police.

XXXIII. The powers and duties conferred and imposed by this Act on Magistrates, Justices of the Peace exercising the full powers of a Magistrate, and Police officers respectively may, in places beyond the limits of British India, be exercised and performed by such persons respectively as the Governor-General of India in Council shall from time to time by notification in the *Gazette of India* appoint in this behalf.

Power to make rules for guidance of officers.

XXXIV. The Governor-General of India in Council may from time to time make rules consistent with this Act for the guidance of officers in matters connected with its enforcement.

All such rules shall be published in the *Gazette of India.*

THE FIRST SCHEDULE.

(*See Section 9.*)

WHEREAS *E. F.* of a person of European extraction and holder of this certificate, has appeared before me and satisfied me that he is not likely to become a vagrant within the meaning of the European Vagrancy Act, 1869, THESE ARE TO CERTIFY that for the space of months from the date hereof and within the Province [*or* District] of nothing in sections four, five, six and seven of the same Act shall be deemed to apply to him, unless he shall be found asking for alms when he has sufficient means of subsistence, or [illegible] in a threatening or insolent manner, or continuing to ask for alms [illegible] on after he has been required to desist: IN ANY OF WHICH CASES he shall be liable to be imprisoned and otherwise dealt with as provided in sections twenty-three and twenty-four of the said Act.

Dated this day of 18 . (Signed) *G. H.*

Magistrate of Police for the Town of *or* Justice of the Peace for exercising the full powers of a Magistrate.

THE SECOND SCHEDULE.

(*See Section 17.*)

ARTICLES OF AGREEMENT made this day of 18 BETWEEN the Secretary of State for India in Council of the one part and *C. D.* of &c., [*the vagrant*] of the other part: Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows:—

1. The said *C. D.* shall proceed forthwith to the port of [*the port of embarkation.*]

2. The said *C. D.* shall there embark on borad such ship and at such time as an officer appointed in this behalf by the Local Government shall direct.

3. The said *C. D.* shall remain on board such ship until she shall have arrived at her port of destination.

4. The said *C. D.* shall not return to India until five years shall have elapsed from the date of such embarkation, unless specially permitted so to return by the said Secretary of State.

5. The said Secretary of State in Council shall defray the cost of the transit of the said *C. D.* to the said port, and of his lodging and subsistence during such transit and during his detention (if any) at the same port, and shall contract with the owner of the said ship or his agent for the passage of the said *C. D.* on board the said ship, and for his subsistence during the voyage for which he shall embark as aforesaid.

IN WITNESS whereof *A. B.* (by order of the Governor-General of India in Council [*or* the Governor of in Council, *or* the Lieutenant-Governor of , *or* the Chief Commissioner of], on behalf of the said Secretary of State in Council), and the said *C. D.* have hereunto set their hands the day and year first above written.

ACT No. XXII OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th September 1869).

An Act to remove the Gáro Hills from the jurisdiction of the tribunals established under the General Regulations and Acts and for other purposes.

1. Short title.
2. Repealed.
3. Repealed.
4. Gáro Hills removed from operation of general Regulations and Acts.
5. Administration of justice and settlement and collection of revenue vested in certain officers.
6. Place of imprisonment or transportation.
7. Power to prevent private collection of cesses.—Compensation.
8. Power to extend laws to Gáro Hills.
9. Power to extend Act to Jintiá and Nága Hills, and to British portion of Khási Hills.
10. Questions of disputed boundary.

Preamble.

WHEREAS it is expedient to remove the territory commonly known as the Gáro Hills from the jurisdiction of the Civil, Criminal, and Revenue Courts and officers esatblished under the general Regulations and Acts, and to provide for the administration of justice and the collection of revenue in the said territory; It is hereby enacted as follows :—

Short title.

I. This Act may be called "The Gáro Hills Act, 1869."

II. Repealed by Act XIV of 1870.

III. Ditto Ditto.

Garo Hills removed from operation of general Regulations and Acts.

IV. Save as hereinafter provided, the territory known as the Gáro Hills, bounded on the north and west by the District of Gawálpárá, on the south by the District of Mymensingh as defined by the Revenue Survey, and on the east by the Khási Hills, is hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature and from the control of the officers of revenue constituted by the Regulations of the Bengal Code and the Acts passed by any legislature now or heretofore established in British India, as well as from the law prescribed for the said Courts and officers by the Regulations and Acts aforesaid;

And no Act hereafter passed by the Council of the Governor-General for making Laws and Regulations shall be deemed to extend to any part of the said territory unless the same be specially named therein.

Administration of justice and settlement and collection of revenue vested in certain officers.

V. The administration of Civil and Criminal justice and the superintendence of the settlement and realization of the public revenue and of all matters relating to rent within the said territory, are hereby vested in such officers as the said Lieutenant-Governor may, for the purpose of tribunals of first instance or of reference and appeal, from time to time appoint. The officers so appointed shall in

the matter of the administration and superintendence aforesaid, be subject to the direction and control of the said Lieutenant-Governor and be guided by such instructions as he may from time to time issue.

Place of imprisonment or transportation

VI. Any person liable to be imprisoned in any civil or criminal jail, or to be transported beyond sea, under any order or sentence passed by any officer or Court empowered as provided in this Act, may be imprisoned in any civil or criminal jail, or transported to any place, which the said Lieutenant-Governor may direct.

Power to prevent private collection of cesses.

Compensation.

VII. The said Lieutenant-Governor may prevent, by such means as he shall think fit, the collection by zamíndárs or other persons of any cesses, tributes, or exactions, on whatsoever pretence the same may be levied, from the inhabitants of the said territory, and may make arrangements either for the remission of such cesses, tributes and exactions, or for their collection direct by the officers of Government, making such compensation to zemìndars or others justly entitled thereto, for the relinquishment of the same, as may to him seem proper.

Power to extend laws to Garo Hills.

VIII. The said Lieutenant-Governor may, from time to time, by notification in the *Calcutta Gazette*, extend to the said territory any law, or any portion of any law, now in force in the other territories subject to his government, or which may hereafter be enacted by the Council of the Governor-General or of the said Lieutenant-Governor for making Laws and Regulations,

and may, on making such extension, direct by whom any powers or duties incident to the provisions so extended shall be exercised or performed, and make any order which he shall deem requisite for carrying such provisions into operation.

Power to extend Act to Jintia and Naga Hills, and to British portion of Khasi Hills.

IX. The said Lieutenant-Governor may, from time to time, by notification in the *Calcutta Gazette*, extend, *mutatis mutandis*, all or any of the provisions contained in the other section of this Act to the Jintíá Hill, the Nága Hills, and to such portion of the Khási Hills as for the time being forms part of British India.

Every such notification shall specify the boundaries of the territories to which it applies.

Questions of disputed boundary.

X. Whenever a question arises whether any place falls within the boundary of the territory described in section four or within the boundary of any of the territories to which provisions of this Act may be extended under section nine, such officers as the said Lieutenant-Governor shall from time to time appoint may consider and determine on which side of the boundary such place may lie, and the order made thereon by such officers shall be final.

ACT No. XXV OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th December 1869).

An Act to provide Rules for the manufacture, storing and sale of Alimentary Salt in the North-Western Provinces, the Punjab, Oudh and the Central Provinces, and for other purposes.

1. *Power to make rules for manufacture of salt.*
2. *Duty on manufactured salt.*
3. *Power to make rules for collection of duty.*
4. *Publication of rules.*
5. *Penalties.*

Preamble.

WHEREAS it is expedient to provide rules for the manufacture, storing and sale of alimentary salt in the territories for the time being respectively under the governments of the Lieutenant-Governors of the North-Western Provinces of the Presidency of Fort William and of the Punjab and the administrations of the Chief Commissioners of Oudh and the Central Provinces; And whereas it is also expedient to impose a duty on salt manufactured in the said territories and to provide rules for the collection of such duty; It is hereby enacted as follows:—

Power to make rules for manufacture of salt.

I. The Local Government may, with the previous sanction of the Governor-General of India in Council, from time to time prescribe rules for the manufacture, storing and sale of alimentary salt in the said territories or any part thereof:

Provided that such rules are consistent with Act No. XIV of 1843 (*for regulating the levy of Customs Duties and the manufacture of Salt in the North-*

Western Provinces of the Presidency of Bengal), Act No. XXXVI of 1855 (*to empower Officers of Customs and Land Revenue to search Houses and other enclosed places for contraband Salt in the North-Western Provinces*), Act No. XIX of 1862 (*to extend to the Province of Oudh certain provisions of Acts XIV of 1843 and XXXVI of 1855 relating to the manufacture of contraband Salt, and to amend the last-named Act*), and Act No. VII of 1864 (*for regulating the importation and manufacture of Alimentary Salt, in the Territories administered by the Chief Commissioner of the Central Provinces*).

Duty on manufactured salt.

II. The Governor-General of India in Council may order the levy of a duty on salt manufactured in any of the said territories, and may from time to time alter such duty: provided that it shall not exceed three rupees per maund of three thousand and two hundred tolas.

Power to make rules for collection of duty.

III. The Local Government may, with the previous sanction of the Governor-General in Council, from time to time prescribe rules for the collection of the said duty in such manner and at such places as shall seem fit.

Publication of rules.

IV. All rules made under this Act shall be published in the local official Gazette, and shall thereupon have the force of law.

Penalties.

V. Whoever knowingly violates any such rule, and whoever abets, within the menaning of the India Penal Code, any person in violating any such rule, shall be punishable on conviction before a Magistrate with fine not exceeding five hundred rupees, or with imprisonment for any term not exceeding six months, or with both:

Provided that, in imposing penalties under this section, no Magistrate shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure.

ACT No. XXVI OF 1869.

Bill No. 22 of 1870 proposes to repeal this Act.

SCHEDULE.

Explanatory Notes.—*1st.*—The entries in the 2nd and 6th columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 212 and 213 of this Code.

3rd.—Offences may be tried by a Court superior to the Court specifically mentioned in column 7. For example, a Court of Session may try an offence entered in column 7 as triable by a Magistrate.

4th.—The words "Magistrate of the District," as used in column 7, shall include any officer exercising the powers of a Magistrate.

5th.—The words "any Magistrate" as used in column 7 shall include any Subordinate Magistrate of the 1st or 2nd Class.

6th.—In the territories in British India to which the General Regulations of Bengal, Madras and Bombay do not extend, the powers given by this Act shall be exercised by such officers as the Local Government of those territories respectively shall appoint.

7th.—The last part of this schedule headed "Offences against other Laws" shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

CHAPTER V. OF ABETMENT.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summon shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence if the person abetted does the act with a different intention from that of the abettor.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto
111	When one act is abetted and a different act is done, subject to the proviso.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the Offence intended to be abetted.	Ditto
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence committed.	Ditto
114	If abettor is present when offence is committed.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	Not bailable...	Imprisonment of either description for 7 years and fine.	Ditto
	If an act which causes harm be done in consequence of the abetment.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 14 years and fine.	Ditto

CHAPTER V.—OF ABETMENT (*Continued.*)

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
116	Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	Imprisonment extending to ¼ part of the longest term, and of any description provided for the offence, or fine, or both.	By the Court by which the offence abetted is triable.
	If the abettor or the person abetted be a public servant, whose duty it is to prevent the offence.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to ½ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ...	Ditto ...	Not bailable..	Imprisonment of either description for 7 years, and fine.	Ditto.
	If the offence be not committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
119	A public servant concealing a design to commit an offence, which it is his duty to prevent, if the offence be committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to ½ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto ...	Ditto ...	Not bailable...	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to ¼ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ...	Ditto ..	Ditto ...	Imprisonment extending to ¼ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

	If not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to ½ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto ...

CHAPTER VI.—OFFENCES AGAINST THE STATE.

121	Waging or attempting to wage war, or abetting the waging of war against the Queen.	Shall not arrest without warrant.	Warrant ...	Not bailable...	Death, or transportation for life, and forfeiture of property.	Court of Session
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditte ...	Ditto ...	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto
123	Concealing with intent to facilitate a dasign to wage war.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto
125	Waging war against any Asiatic power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ..	Ditto ..	Transportation for life and fine, or imprisonment of either description of 7 years, and fine, or fine.	Ditto
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, and fine, and forfeiture of certain property.	Ditto
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto ..	Ditto ..	Bailable ...	Simple imprisonment for 3 years, and fine.	Court of Session or Magistrate of the District.
130	Aiding escape of, rescuing, or harbouring such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ...	Not bailable...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issu in the firs instance.	5 Whether bailor or not.	6 Publishment under the Indian Penal Code.	7 By what Court triable.
131	Abetting mutiny, or attempting to seduce an officer, soldier, or sailor from his allegiance or duty.	May arrest without warrant.	Warrant ..	Not bailable..	Transportation for life, imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny if mutiny is committed in consequence thereof.	Ditto ...	Ditto ...	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
133	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
134	Abetment of such assault, if the assault is committed.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier, or sailor.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
136	Harbouring such an officer, soldier, or sailor who has deserted.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ..	Ditto ..	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto ...	Summons ...	Ditto ...	mprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being a member of an unlawful assembly.	May arrest without warrant.	Summons ...	Bailable .	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.

144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ..	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto ...	Ditto ..	Ditto ...	Ditto ...	Ditto.
147	Rioting.	Ditto ...	Ditto ..	Ditto ...	Ditto ..	Ditto.
148	Rioting armed with a deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence ...	By the Court by which the offence is triable.
150	Hirring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired engaged or employed.	Ditto ...	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed.	Ditto ..	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ..	Fine of 1,000 rupees ...	Magistrate of the District, or Subordinate Magistrate of 1st Class.
155	Person for whose benefit, or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ..	Ditto ..	Ditto ...	Fine ...	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ...	Ditto .	Ditto ..	Ditto ...	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto ..	Ditto ...	Imprisonment of either description for 6 months, or fine, or both	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.—(*Continued.*)

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
158	Being hired to take part in an unlawful assembly or riot.	May arrest without warrant.	Summons. ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class
	Or to go armed.	Ditto. ...	Warrant ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray.	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
168	Public servant unlawfully engaging in trade.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District.
169	Public servant unlawfully buying or bidding for property.	Ditto ..	Ditto ..	Ditto ...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant.	May arrest without warrant.	Warrant ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ..	Summons ..	Ditto ..	Imprisonment of either description for 3 months, or fine of 200 rupees, or both	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ..	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto .	Ditto ..	Ditto ...	Simple imprisonment for 6 months or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto ..	Ditto ..	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS *(Continued.)*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of Chapter X of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto ...	Ditto ...	Ditto ..	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the District.
	If the notice or information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If the information required [illegible] commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

178	Refusing oath whe[illegible]e oath by a public servant. [illegible] direction of [illegible] [illegible]y person. [illegible]rect do[illegible]	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of Chapter X of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class.
179	Being legally bound to state the truth, and refusing to answer questions.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding by a person under a legal incapacity to purchase it for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS *(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Shall not arrest without warrant.	Summons ...	Bailable ..	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	Giving or fabricating false evidence in any other case.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
	If innocent person be thereby convicted and executed	Ditto ...	Ditto ..	Ditto ...	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto ...	Ditto ...	Ditto ...	The same as for the offence	Ditto.

196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto ..	Ditto ...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	Ditto.
197	Knowingly issuing or signing a false certificate relating to any fact if such certificate is by law admissible in evidence.	Ditto ...	Ditto ...	Bailable	The same as for giving false evidene	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
	If punishable with transportation, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine,	Court of Session or Magistrate of the District.
	If punishable with less than 10 years' imprisonment	Ditto ...	Ditto ...	Ditto ..	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the District.
203	Giving false information respecting an offence committed	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE *(Continued).*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
209	False claim in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto ..	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.

214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transporation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ..	Ditto .	Imprisonment for ½ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
	If with imprisonment for 1 year and not for 10 years.	Ditto ..	Ditto ...	Ditto ...	Imprisonment for ½ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both,	Magistrate of the District or Subordinate Magistrate of 1st Class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ..	Warrant ..	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto. ...
220	Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.	Ditto ..	Ditto ..	Ditto ...	Ditto ...	Ditto. ...
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine	Ditto. ..

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE *(continued)*.

1	2	3	4	5	6	7
Section.	Offence.	When the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	If punishable with transportation for life, or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, with or without fine.	Court of Session or Magistrate of the District.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 2 years, with or without fine.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto ...	Ditto ...	Not bailable...	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
223	Escape from confinement negligently suffered by a public servant.	Ditto ..	Summons ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ..	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Not bailable...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
	If charged with a capital offence.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.

	If the person is sentenced to transportation for life or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto
	If under sentence of death.	Ditto ...	Ditto ...	Ditto ..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
226	Unlawful return from transportation.	Ditto ...	Ditto ..	Ditto ..	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Ditto
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ...	Ditto ..	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ..	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter X of this Code.
229	Personation of a juror or assessor.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting or performing any part of the process of counterfeiting Coin.	May arrest without warrant.	Warrant ...	Not bailable...	Imprisonment of either description for 7 years, and fine.	Court of Session.
232	Counterfeiting or performing any part of the process of counterfeiting the Queen's Coin.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting Coin.	Ditto ..	Ditto ...	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting Coin.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
	If Queen's Coin.	Ditto ...	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS (*continued*).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
236	Abetting in India the counterfeiting out of British India of Coin.	May arrest without warrant.	Warrant ...	Not bailable .	The punishment provided for abetting the counterfeiting of such coin within British India.	Court of Session.
237	Import or export of counterfeit Coin, knowing the same to be counterfeit.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
238	Import or export of counterfeits of the Queen's Coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit Coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ...	Ditto .	Ditto ..	Imprisonment of either description for 5 years, and fine.	Ditto.
240	The same with respect to the Queen's Coin.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
241	Knowingly delivering to another any counterfeit Coin as genuine which when first possessed the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 2 years, or fine of 10 times the value of the Coin counterfeited, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
242	Possession of counterfeit Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
243	Possession of Queen's Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
245	Unlawfully taking from a Mint any coining instrument	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any Coin.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.

247	Fraudulently diminishing the weight or altering the composition of the Queen's Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
248	Altering appearance of any Coin with intent that it shall pass as a Coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
249	Altering appearance of the Queen's Coin with intent that it shall pass as a Coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
250	Delivery to another of Coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
251	Delivery of Queen's Coin possessed with the knowledge that it is altered.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
252	Possession of altered Coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
253	Possession of Queen's Coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Court of Session.
254	Delivery to another of Coin as genuine, which, when first possessed, the deliverer did not know to be altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the Coin.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
255	Counterfeiting a Government stamp.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
258	Sale of counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
262	Using a Government stamp known to have been before used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS (*Continued*).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
263	Erasure of mark denoting that stamp has been used.	May arrest without warrant.	Warrant. ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons ..	Bailable ..	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st class
265	Fraudulent use of false weight or measure.	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ..	Ditto ..	Ditto ...	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto ..	Ditto ..	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons .	Bailable ..	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto ..	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.

272	Adulterating food or drink for man intended for sale so as to make the same noxious.	Ditto ..	Ditto ...	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto ..	Ditto ...	Ditto ..	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale, so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto ..	Ditto ...	Ditto ..	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ..	Ditto	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto ...	Ditto ..	Ditto .	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto ...	Ditto .	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto ..	Ditto ..	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto .	Ditto ...	Ditto	Magistrate of the District, or Subordinate Magistrate of 1st Class.
281	Exhibition of a false light, mark, or buoy.	Ditto ...	Warrant ..	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ..	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto ...	Ditto ..	Ditto ...	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ..	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto ..	Ditto ...	Ditto	Any Magistrate.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS (*Continued*).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
286	So dealing with any explosive substance.	May arrest without warrant.	Summons ..	Bailable ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Any Magistrate.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto ..	Ditto ...	Ditto	Magistrate of the District, or Subordinate Magistrate of 1st Class
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto ..	Ditto ..	Ditto ...	Ditto	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto ..	Ditto	Any Magistrate.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto ..	Ditto ...	Fine of 200 rupees	Ditto
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
292	Sale, &c., of obscene books, &c.	Ditto ...	Warrant	Ditto .	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto ..	Ditto ..	Ditto ...	Ditto	Ditto.
294	Obscene songs.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XV—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto ...
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto ...
298	Uttering any word or making any sound in the hearing or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feelings.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto ..

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant ...	Not bailable ..	Death, transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto ...	Ditto ...	Ditto ...	Death	Ditto.
304	Culpable homicide not amounting to murder if act by which the death is caused is done with intention of causing death, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto. ...	Ditto ...	Ditto ..	Death, or transportation for life, or imprisonment for 10 years, and fine.	Ditto.
306	Abetting the commission of suicide.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
307	Attempt to murder	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
	If such act cause hurt to any person.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
308	Attempt to commit culpable homicide.	Ditto ...	Ditto ..	Bailable ..	Imprisonment of either description for 3 years, or fine, or both.	Ditto.

CHAPTER XVI - OFFENCES AFFECTING THE HUMAN BODY (*continued*).

Offences affecting life (continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If such act cause hurt to any person.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
309	Attempt to commit suicide.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, and fine.	Magistrate of the District.
311	Being a thug.	Ditto ...	Ditto ...	Not bailable ..	Transportation for life, and fine.	Court of Session.
	Of the causing of Miscarriage ; of injuries to unborn children ; of the exposure of infants ; and of the concealment of births.					
312	Causing miscarriage,	Shall not arrest without warrant.	Warrant ..	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
	If act done without woman's consent.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
317	Exposure of a child under 12 years by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto ..	Bailable ..	Imprisonment of either description for 7 years, or fine, or both.	Ditto.

318	Concealment of birth by secret disposal of dead body ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Magistrate of the District.
	Of Hurt.					
323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District, or Subordinate Magistrate of 1st Class.
325	Voluntarily causing grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto ...
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ...	Ditto ...	Not bailable...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Warrant ..	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto
328	Administering stupefying drug with intent to cause hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ..	Ditto ..	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ..	Bailable ...	Imprisonment of either description for 7 years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Not bailable...	Imprisonment of either description for 10 years, and fine.	Ditto
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years, and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Summons ...	Bailable ..	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY (*continued*).

Of Hurt (continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons ..	Bailable ...	Imprisonment of either description for 4 years or fine of 2,000 rupees, or both.	Court of Session or Magistrate of the District.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c	Ditto ...	Ditto .	Ditto ..	Imprisonment of either description for 6 months, or of fine 500 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of Wrongful Restraint and Wrongful Confinement.

341	Wrongfully restraining any person.	May arrest without warrant.	Summons. .	Bailable .	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person.	Ditto ...	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate of the District or Subordinate Magistrate of 1st Class
343	Wrongfully confining for three or more days.	Ditto .	Ditto	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto ..	Ditto ...	Ditto ..	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the District.

345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ..	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate ...
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ...	Not bailable...	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery, and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant ...	Not bailable...	Imprisonment of either description for 7 years, and fine.	Court of Session.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY (*continued*).

Of Kidnapping, Forcible Abduction, Slavery, and forced Labour (continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
364	Kidnapping or abducting in order to murder.	May arrest without warran.	Warrant ..	Not bailable..	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage, or to cause her defilement, &c.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto ..	Ditto ...	Ditto ...	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto ...	Bailable ..	Ditto	Ditto.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto ...	Not bailable..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto ..	Ditto ...	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
374	Unlawful compulsory labour.	Ditto ...	Ditto ...	Bailable ..	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

Of Rape.

376		May arrest without warrant.	Warrant ..	Not bailable...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

Of Unnatural Offences.

377	Unnatural offences.	May arrest without warrant.	Warrant ...	Not bailable..	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER XVII—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft.	May arrest without warrant.	Warrant ...	Not bailable...	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent, or vessel.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session or Magistrate of the District.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years, and fine.	Court of Session.

Of Extortion.

384	Extortion.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District, or Subordinate Magistrate of 1st Class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ..	Ditto ...	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.